

LA QUEN NÁAY ELIZABETH
MEDICINE CROW, AMBER LEE, and
KEVIN MCGEE,

V.

V.

Intervenors.

Page 1 of 95

7.	Alexander Susky's Testimony.....	14
8.	Marcie Wilson's Testimony	18
9.	John "Jay" Costa's Testimony	19
10.	Michaela Thompson's Testimony	30
11.	Linn McCabe's Testimony	31
12.	Linda Berg Smith's Testimony	33
13.	Robert Coulter's Testimony	34
14.	John Whisamore's Testimony	36
15.	William Quantick's Testimony	37
16.	Mikaela Emswiler's Testimony.....	39
17.	Kathryn McCollum's Testimony.....	43
18.	Phillip Izon's Testimony	46
19.	Theodorus Ransum's Testimony.....	51
20.	Dr. Arthur Matias's Testimony	54
21.	Brad Campbell's Testimony.....	55
22.	Eric Hughes's Testimony	56
23.	Trevor Jepsen's Testimony	57
24.	Natalie Martin's Testimony.....	58
25.	Colleen Sherman's Testimony	59
26.	Sylvia Stewart's Testimony.....	61
27.	James Stocker's Testimony	62
28.	Sharon Wessels's Testimony.....	62
29.	Jesse Baise's Testimony	63
30.	Richard Eide's Testimony	64
31.	John Miller's Testimony	65
32.	Barbara Tyndall's Testimony	65
III.	Conclusions of Law.....	66
A.	Applicable Law	66
1.	Burden of Proof.....	66
2.	"The right to initiative is a key feature of Alaska's governance."	67
3.	This Court may invalidate individual signatures, entire booklets, booklets by specific circulators, or an entire petition depending on the severity of circulator misconduct.....	68
4.	Self-certification is always permitted.....	72
5.	Signatures must be made in a circulator's "actual presence," and petition booklets cannot be shared among circulators....	74
B.	The Court concludes that 22AKHE is not disqualified based on allegations of pervasive problems with the petition campaign as a whole.	77

C.	The Court concludes that some petition booklets must be disqualified.	78
1.	High Total Days	79
2.	3+ Simultaneous Start Booklets	80
3.	Shared Booklets.....	81
4.	Unattended Booklets	84
5.	Circulators Who Otherwise Failed to Reaffirm Booklets.	87
6.	Self-Certification	89
7.	“Falsus in uno, falsus in omnibus”	90
8.	“Faulty” Notarization/Oversight by Mr. Ransum	90
9.	“Donna”	91
10.	Certified Before Finished Circulation	92
11.	False Certification Regarding Payment.....	92
D.	The Court concludes that the individual signatures remaining at issue were properly qualified.....	93
IV.	Orders	93

I. Introduction

This case concerns a dispute over the validity of the filing of a petition to place an initiative on the November 2024 general election ballot. The Plaintiffs are individual Alaskans challenging the Defendants’ finding that the initiative petition designated as 22AKHE was properly filed. The Defendants are the government officials and public agency charged with reviewing and verifying ballot initiative petition booklets, including the Lieutenant Governor, the Division of Elections, and its Director (collectively, “the Division”). The Intervenors are the individual Alaskans who sponsored 22AKHE (collectively, the “Sponsors”).

The Court previously (1) GRANTED the Stipulation and Proposed Order for Expedited Deadlines and Resolution;¹ (2) DENIED the Sponsors’ Motion to Convert the Case into an Administrative Appeal; (3) GRANTED the Division and

¹ Stipulation and Proposed Order for Expedited Deadlines and Resolution (April 23, 2024). The Court hereby incorporates that Stipulation, in its entirety, including the attached Exhibits, by reference.

Sponsors' Cross-Motions for Summary Judgment on Counts III and IV;² (4) GRANTED the Stipulation and Proposed Order Regarding Signatures;³ (5) GRANTED summary judgment for the Sponsors as to the discrete issue of whether *all* booklets notarized by Theodorus Ransum must be excluded as a matter of law;⁴ and (6) DENIED summary judgment as to all remaining counts.⁵

The claims remaining for resolution at trial included: 1) Counts I and II, which sought declaratory judgment that the Defendants violated AS 15.45.130(2) and (3) by counting signatures from petition booklets that were circulated by more than one circulator, or that included signatures that were not made in the circulator's "actual presence," and thus were supported by "a false circulator's affidavit,"⁶ including booklets certified by circulators who "perjured themselves" on other booklets; 2) Count V, which sought the invalidation of individual signatures proven to be fraudulent or invalid; 3) Count VI, which sought the rejection of unlawfully circulated booklets, either because the booklets contained signatures collected by more than one circulator, or because the booklets contained signatures that were entered outside the "actual presence" of the circulator; 4) Count VII, which sought the rejection of all booklets by any circulator proven to have perjured themselves on any booklet, thus in effect rejecting all booklets by any circulator who at any time certified any booklet that (a) contained signatures proven to have been collected by more than one circulator, or (b) contained signatures proven to have been collected outside the circulator's actual presence; and Count VII also sought the disqualification of 22AKHE from the ballot if

² Order Re Motion for Summary Judgment (June 7, 2024). The Court hereby incorporates that Order, in its entirety, by reference.

³ Stipulation and Proposed Order Regarding Signatures (June 20, 2024). The Court hereby incorporates that Stipulation, in its entirety, including the attached Exhibits, by reference.

⁴ Order Re Renewed Motion for Summary Judgment (June 21, 2024). The Court hereby incorporates that Order, in its entirety, by reference.

⁵ *Id.*

⁶ Complaint (April 2, 2024), at 23-24.

enough booklets and signatures were invalidated, thus causing the initiative to fall below the signature thresholds of AS 15.45.140(a)(1)-(3).

The Court, having reviewed the admitted evidence, testimony, and file, and being fully informed in the premises, hereby makes the following Findings of Fact and Conclusions of Law.

II. Findings of Fact

A. Preliminary Findings

1. Sponsors filed an initiative application, on November 23, 2022, for what would later become 22AKHE.
2. The Division certified the application on January 20, 2023.
3. The Sponsors received training on lawful petition circulation practices and received the 22AKHE petition booklets from Division staff on February 8, 2023. The petition booklets included instructions on circulator requirements and procedures.
4. The Sponsors filed 655 22AKHE petition booklets with the Division on January 12, 2024. The Division completed a facial review of the booklets, and accepted 640.
5. After performing a line-by-line analysis to determine which signatures were qualified, on March 8, 2024, the Division notified the Sponsors that 22AKHE qualified for the 2024 general election ballot.
6. Plaintiffs timely filed a Complaint in the above-captioned matter on April 2, 2024.
7. The Sponsors intervened without objection in April 2024.
8. The parties stipulated, and the Court granted, an expedited briefing, trial, and decision schedule.
9. The Court issued its first Order Re Summary Judgment on June 7, 2024.

10. The Court issued its Order Re Renewed Motion for Summary Judgment on June 21, 2024.
11. The Court conducted a trial to resolve the parties' remaining disputed factual issues.

B. Trial

12. The Court conducted a trial on June 24-26 and July 2-3, 2024. Additional trial days and times were made available to the parties, but all parties declined to present additional testimony on those days.
13. At trial, the Court heard live testimony from eighteen witnesses: (1) Brooke Reinsch; (2) Derek Applin; (3) Valerie Kenny; (4) Angela Chiappetta; (5) Dawn Dunbar; (6) Gregory Lee; (7) Michaela Thompson; (8) Linn McCabe; (9) Alexander Susky; (10) Marcie Wilson; (11) Linda Berg Smith; (12) Robert Coulter; (13) John Whisamore; (14) John "Jay" Costa; (15) William Quantick; (16) Mikaela Emswiler; (17) Kathryn McCollum; and (18) Phillip Izon, II.
14. Per the agreement of the parties, the Court also watched twenty-one designated and counter-designated videotaped depositions outside of open court: (1) Jesse Baise; (2) Brad Campbell; (3) John "Jay" Costa; (4) Robert Coulter; (5) Richard Eide; (6) Mikaela Emswiler; (7) Eric Hughes; (8) Phillip Izon, II; (9) Trevor Jepsen; (10) Kathryn McCollum; (11) Natalie Martin; (12) Dr. Arthur Mathias; (13) John Miller; (14) William Quantick; (15) Theodorus Ransum; (16) Colleen Sherman; (17) Linda Berg Smith; (18) Sylvia Stewart; (19) James Stocker; (20) Barbara Tyndall; and (21) Sharon Wessels.
15. The Court admitted the following exhibits: 1001A, 1003A, 1003E, 1009, 1011, 1012, 1013, 1014, 1016A-J, 1017A-J (exhibits 1017G and 1017H were admitted in part), 1018A-K, 1019A-C 1020A-E (exhibit 1020B was

admitted in part), 1021A-W (exhibits 1021K, 1021V, and 1021W were admitted in part), 1022A-C (exhibit 1022C was admitted in part), 1024A-B, 1026-1029, 1032-1038, 1041A-W, 1045, 1047D, 1053, 1055 (only the tables and charts at pages 8-19, 21, 24-26 were admitted), 1055A, 1055E, 1056, 1056A-B, 2001-2641, 3001, 3002A-G, 3004A-H, 3005A-E, 3008A-ZA, 3009, and 3011.

1. Brooke Reinsch's Testimony

16. Ms. Reinsch testified via telephone.
17. Ms. Reinsch testified that she observed a petition booklet unmonitored and unattended at Duane's Antique Market ("Duane's") on July 25, 2023.
18. Ms. Reinsch testified that no one asked her to sign the petition booklet, or if she was a registered voter, when she walked into Duane's on July 25, 2023.
19. Ms. Reinsch authenticated exhibits 1024A and 1024B, which are photographs of petition booklet 0835 (exhibit 2484, p. 25), accompanied by a pen, that was left unmonitored and unattended at Duane's on July 25, 2023.
20. The Court finds Ms. Reinsch's testimony, as stated above, to be relevant and credible.⁷

2. Derek Applin's Testimony

21. Mr. Applin testified via telephone.
22. Mr. Applin testified that he observed petition booklet 0835 (exhibit 2484) unmonitored and unattended at Duane's on August 4, 2023.
23. Mr. Applin testified that two people were present at Duane's on August 4, 2023: one man at the front desk who appeared to be an employee, and another man carrying things in and out of the store who appeared to be an employee or a delivery man. Mr. Applin testified that only the employee at

⁷ The Court does not include testimony which it heard, but deemed irrelevant.

the front desk appeared to have any concern over the booklet, and that he had a conversation with that employee.

24. Mr. Applin authenticated exhibits 1020A and 1020B, which are videos he took of petition booklet 0835 (exhibit 2484) at Duane's on August 4, 2023. Mr. Applin also authenticated exhibits 1020C and 1020D, which are photographs he took of petition booklet 0835 (exhibit 2484) at Duane's on August 4, 2023. In exhibit 1020B, the employee of Duane's told Mr. Applin that he did not know what the petition was about or what it was for.
25. Mr. Applin further testified that he observed petition booklet 0950 (exhibit 2549) at the Mat-Su Republican Women's Club ("the Club") "Booth" at the Alaska State Fair on August 19, 2023.
26. Mr. Applin testified that he observed people walk up and sign petition booklet 0950 (exhibit 2549) at the Club "Booth" at the State Fair on August 19, 2023.
27. Mr. Applin authenticated exhibit 1020E, which is a video he took of petition booklet 0950 (exhibit 2549) and his interaction with women sitting behind that booklet at the Club "Booth" at the Alaska State Fair on August 19, 2023.
28. The Court finds Mr. Applin's testimony, as stated above, to be relevant and credible.

3. Valerie Kenny's Testimony

29. Ms. Kenny testified via telephone.
30. Ms. Kenny testified that she observed two unmonitored and unattended booklets at Tudor Bingo on October 23, 2023.

31. Ms. Kenny testified that she observed writing in one of the unmonitored and unattended booklets that stood out to her because it said something *in favor* of ranked-choice voting.⁸
32. Ms. Kenny testified that she returned to Tudor Bingo in the weeks after October 23, 2023, and that the booklets remained there unmonitored and unattended for at least one week, if not longer. Ms. Kenny testified that she never observed anyone monitoring the booklets during that time.
33. The Court finds Ms. Kenny's testimony, as stated above, to be relevant and credible.

4. Angela Chiappetta's Testimony

34. Ms. Chiappetta testified via telephone.
35. Ms. Chiappetta testified that she observed petition booklet 0835 (exhibit 2484) unmonitored and unattended at Duane's on August 16, 2023.
36. Ms. Chiappetta testified that when she walked into Duane's on August 16, 2023, no one was standing near petition booklet 0835 (exhibit 2484), that a man who identified himself as "Duane" left the store completely at one point, and that another employee of the store was in a different room entirely.
37. Ms. Chiappetta authenticated exhibit 1018A, which is a video she took of the unmonitored and unattended petition booklet 0835 (exhibit 2484) accompanied by a pen at Duane's on August 16, 2023. The video depicts the individual Ms. Chiappetta identified as "Duane" leaving the store. Ms. Chiappetta also authenticated exhibits 1018B and 1018C, which are photos she took of the unmonitored and unattended booklet 0835 (exhibit 2484), and 1018D, which is a photo she took of the other employee she observed in a separate room at Duane's on August 16, 2023.

⁸ Writing consistent with Ms. Kenny's testimony can be seen on page 25 of exhibit 2560.

38. Ms. Chiappetta further testified that she observed petition booklet 0608 (exhibit 2364) left unmonitored and unattended on the front counter at GF Sherman Signs on August 25, 2023.
39. Ms. Chiappetta authenticated exhibits 1018E, 1018F, and 1018G, which are photos she took of petition booklet 0608 (exhibit 2364), accompanied by pens, that she observed had been left unmonitored and unattended at GF Sherman Signs on August 25, 2023.
40. Ms. Chiappetta further testified that she observed petition booklet 0694 (exhibit 2419) at the Club "Booth" at the Alaska State Fair on September 1, 2023, and interacted with the women at the "Booth" behind that booklet.
41. Ms. Chiappetta testified that petition booklet 0694 (exhibit 2419) had the name "Natalie" written on it, but none of the women at the "Booth" behind that booklet identified themselves as "Natalie" when Ms. Chiappetta asked.⁹
42. Ms. Chiappetta authenticated exhibit 1018H, which is a video she took of petition booklet 0694 (exhibit 2419) and the interaction she had with the women at the Club "Booth" at the Alaska State Fair on September 1, 2023, where none of the women identified themselves as "Natalie."
43. Ms. Chiappetta testified that she did not look around to see if Ms. Martin was in the vicinity of the "Booth" when she took the video (exhibit 1018H), and admitted that she would not have recognized Ms. Martin if she had seen her.
44. Ms. Chiappetta testified that she did not remember seeing if anyone signed Ms. Martin's booklet 0694 (exhibit 2419).
45. Ms. Chiappetta testified that she returned to the Alaska State Fair on September 2, 2023, and observed petition booklet 0696 (exhibit 2421) at

⁹ Petition booklet 0694 (exhibit 2419) has the name "Natalie Martin" written on the top right corner of the first page.

the Club “Booth” and interacted with the woman behind that booklet who identified herself as “Nan.”

46. Ms. Chiappetta authenticated exhibit 1018I, which is a video she took of the woman behind petition booklet 0696 at the Club “Booth” at the Alaska State Fair on September 2, 2023. Ms. Chiappetta also authenticated exhibits 1018J and 1018K, which are photos she took of booklet 0696 (exhibit 2421) at the same location and on the same date.¹⁰
47. Ms. Chiappetta testified that she did see someone sign the booklet in front of “Nan” at the Fair.
48. The Court finds Ms. Chiappetta’s testimony, as stated above, to be relevant and credible.

5. Dawn Dunbar’s Testimony

49. Ms. Dunbar testified via telephone.
50. Ms. Dunbar testified that she was with her friend, Valerie Kenny, when she observed petition booklets 0967 (exhibit 2560) and 0968 (this booklet is not an exhibit because it was neither part of Intervenor’s exhibits of unsubmitted booklets nor part of Defendants’ exhibits of submitted booklets) left unmonitored and unattended at Tudor Bingo on October 23, 2023.
51. Ms. Dunbar further testified that petition booklets 0967 (exhibit 2560) and 0968 remained unmonitored and unattended at Tudor Bingo for several weeks after October 23, 2023, that she never saw anyone monitoring the booklets during that time, that no one ever asked her to sign the booklets or if she was a registered voter, and that she observed people picking up and writing on the booklets.

¹⁰ Petition booklet 0696 (exhibit 2421) was certified by Ms. McCabe. The September 2, 2023, video (exhibit 1018I) does not depict anyone signing booklet No. 696 while Ms.

52. Ms. Dunbar authenticated exhibits 1019A, 1019B, and 1019C, which are photos that she took of the unmonitored and unattended petition booklets 0967 (exhibit 2560) and 0968, accompanied by pens, at Tudor Bingo on October 23, 2023.
53. Ms. Dunbar testified that she called the Division and told them about the unmonitored and unattended petition booklets at Tudor Bingo.¹¹¹²
54. The Court finds Ms. Dunbar's testimony, as stated above, to be relevant and credible.

6. Gregory Lee's Testimony

55. Mr. Lee testified via telephone.
56. Mr. Lee testified that he was employed by the "Mobilization Center" in the fall of 2023, and that he was instructed by his employer to gather evidence about the 22AKHE signature gathering campaign, including by engaging with the campaign organizers as a prospective signature gatherer.
57. Mr. Lee authenticated exhibit 1003A, which is an audio recording he made of a phone call he had with Mikaela Emswiler on November 14, 2023.
58. Mr. Lee also testified to meeting with Ms. Emswiler at Wellspring Ministries to discuss the 22AKHE campaign and that he picked up booklets there from Kit Rittgers. Mr. Lee authenticated exhibit 1003E, which is a printout of the "Ministry Staff" at Wellspring Ministries and includes a photo of Kit Rittgers, who is listed as the "Office Administrator."
59. Mr. Lee further testified to observing unmonitored and unattended 22AKHE petition booklets at Tudor Bingo on October 21, 2023.

McCabe was not present. The two still photographs of booklet No. 696 likewise do not depict anyone signing the booklet.

¹¹ Exhibit 1027 is a note from a Division employee with information consistent with Ms. Dunbar's testimony.

¹² Exhibit 1012 (and exhibit 1056B) is an email from Michaela Thompson to Phillip Izon and Carol Beecher consistent with Ms. Dunbar's testimony.

60. Mr. Lee authenticated exhibits 1021A, 1021B, 1021C, 1021D, and 1021E, which are photos he took of petition booklets 0967 (exhibit 2560) and 0968 accompanied by pens and left unmonitored and unattended at Tudor Bingo on October 21, 2023.
61. Mr. Lee further testified that he went to Big Valley Bingo on October 30, 2023, where he observed a large sign in front of the business telling people to sign petition booklets there, along with unmonitored and unattended booklets inside the establishment.
62. Mr. Lee authenticated exhibits 1021F, 1021G, 1021H, and 1021I, which are photos Mr. Lee took of petition booklet 0140 (exhibit 3008G) and a second petition booklet missing its front page (identified by Intervenor's counsel as booklet 0357 (exhibit 3008K)), which were accompanied by pens and left unmonitored and unattended at Big Valley Bingo on October 30, 2023. Mr. Lee also authenticated exhibits 1021J, 1021K, 1021L, and 1021M, which are videos he took on the same date at the same location. The Big Valley Bingo employees depicted in 1021K and 1021L informed Mr. Lee that they do not know anything about the petition booklets.
63. Mr. Lee testified that he returned to Big Valley Bingo on November 14, 2023, and again observed the large sign telling people to sign petition booklets; petition booklets 0140 (exhibit 3008G) and 0357 (exhibit 3008K) remained unmonitored and unattended inside.
64. Mr. Lee authenticated exhibits 1021N and 1021O, which are photos he took on November 14, 2023, of the large light-up sign outside of Big Valley Bingo featuring the 22AKHE logo and advertising to the public for people to sign petition booklets there. Mr. Lee also authenticated exhibits 1021P, 1021Q, 1021R, and 1021S, which are photos he took of petition booklets 0140 (exhibit 3008G) and 0357 (exhibit 3008K) that remained unmonitored and unattended inside Big Valley Bingo on the same date. Mr. Lee also

authenticated exhibit 1021T, which is a video he took of the same booklets with no one monitoring them on the same date at the same location.

65. Mr. Lee further testified that he returned to Big Valley Bingo again on November 27, 2023, where he again observed petition booklets 0140 (exhibit 3008G) and 0357 (exhibit 3008K) unmonitored and unattended.
66. Mr. Lee authenticated exhibits 1021U and 1021V, which are videos he took during his visit to Big Valley Bingo on November 27, 2023. In video exhibit 1021V, a Big Valley Bingo employee behind the counter responded that she cannot tell Mr. Lee anything about the booklets.
67. Mr. Lee further testified to observing two unmonitored and unattended 22AKHE petition booklets at Duane's on November 17, 2023, and interacting with one of the employees.
68. Mr. Lee authenticated exhibit 1021W, which is a video he took of the unmonitored and unattended booklets accompanied by a pen, and his interaction with employees of Duane's on November 17, 2023. The video reveals that one of the unmonitored and unattended booklets is booklet 0836 (this booklet is not an exhibit and is neither part of Intervenor's exhibits of unsubmitted booklets nor part of Defendants' exhibits of submitted booklets).
69. Mr. Lee further testified that he has worked on a number of signature campaigns in numerous states, and that it is his belief that any booklets left unattended at businesses should not be submitted to the Division.
70. Mr. Lee also confirmed that the Sponsors "did the right thing" if they did not submit the booklets from Big Valley Bingo.
71. The Court finds Mr. Lee's testimony, as stated above, to be relevant, but duplicative, and credible.

7. Alexander Susky's Testimony

72. Mr. Susky testified via telephone.

73. Mr. Susky testified that he and Alec "Allison" Dill went to Big Valley Bingo on October 19, 2023, and observed two 22AKHE booklets left unmonitored and unattended.
74. Mr. Susky authenticated exhibits 1017A and 1017B, which are videos he took of unmonitored and unattended booklets 0140 (exhibit 3008G) and 0357 (exhibit 3008K), accompanied by pens, at Big Valley Bingo on October 19, 2023. Mr. Susky also authenticated exhibit 1016A, which is a photo of booklet 0357 (exhibit 3008K) taken by Ms. Dill on the same day and at the same location.
75. Mr. Susky further testified that he returned to Big Valley Bingo with Ms. Dill on November 17, 2023, and observed that the same booklets remained unattended without anyone monitoring them.
76. Mr. Susky authenticated exhibit 1017C, which is a video he took of the unmonitored and unattended booklets accompanied by pens at Big Valley Bingo on November 17, 2023. He also authenticated exhibits 1016B and 1016C, which are photos taken by Ms. Dill of the same booklets on the same day at the same location.
77. Mr. Susky further testified to going to Sylvia's Quilt Depot with Ms. Dill on October 19, 2023. Mr. Susky testified that he asked an employee for a booklet and the employee provided him with 22AKHE booklet 0502 (exhibit 2323). Mr. Susky testified that he and Ms. Dill returned to Sylvia's Quilt Depot on December 6, 2023, and observed the same booklet 0502 (exhibit 2323) on display at the counter without anyone monitoring it.
78. Mr. Susky authenticated exhibits 1016D, 1016E, and 1016F, which are photos Ms. Dill took of unmonitored and unattended booklet 0502 (exhibit 2323) at Sylvia's Quilt Depot on December 6, 2023.

79. Mr. Susky further testified that he and Ms. Dill went to Tudor Bingo on October 27, 2023, where he observed a 22AKHE booklet left unmonitored and unattended on a table in the establishment.
80. Mr. Susky authenticated exhibit 1017D, which is a video he took of booklet 0968, and a second unidentified booklet accompanied by pens and left unmonitored and unattended at Tudor Bingo on October 27, 2023.
81. Mr. Susky further testified that he and Ms. Dill returned to Tudor Bingo on November 11, 2023, and observed the same booklets left unmonitored and unattended on the same table.
82. Mr. Susky authenticated exhibit 1017E, which is a video he took of the same two unmonitored and unattended booklets accompanied by pens at Tudor Bingo on November 11, 2023. Mr. Susky testified that none of the individuals present in the video asked him to sign the booklets or asked if he was a registered voter. Mr. Susky also authenticated exhibits 1016G and 1016H, which are photos Ms. Dill took of the same booklets on the same date at the same location. These photos identify the unmonitored and unattended booklets as booklets 0967 (exhibit 2560) and 0968.
83. Mr. Susky further testified to going to Duane's with Ms. Dill on October 27, 2023, and observing several petition booklets left unmonitored and unattended on a table near the entrance. Mr. Susky testified that no one was monitoring the booklets or asking for his signature, but that an employee made "chitchat" with him.
84. Mr. Susky authenticated exhibits 1017F and 1017G, which are videos he took of the unmonitored and unattended booklets accompanied by pens at Duane's on October 27, 2023. Video exhibit 1017F reveals the booklets to be booklets 0679 (exhibit 2409), 0836 (this booklet is not an exhibit), and 1401 (again, the booklet is not an exhibit). Video exhibit 1017G reveals a female near the booklets who says she does not work at the store and a

- male employee behind a counter far from the booklets who indicated he is not the one circulating the booklets, and those people are “normally [] in the area.” Mr. Susky also authenticated exhibit 1016I, which is a photo taken by Ms. Dill of the same booklets at the same location on the same date.
85. Mr. Susky further testified that he returned to Duane’s with Ms. Dill on November 11, 2023, and observed booklets left unmonitored and unattended at the front table. Mr. Susky testified that no one was asking for his signature.
86. Mr. Susky authenticated exhibit 1017H, which is a video he took of the unmonitored and unattended booklets at Duane’s on November 11, 2023. Video exhibit 1017H shows booklet 0836 and a second booklet on the front table accompanied by pens, two older gentlemen in chairs near the booklets who were not present on October 27, 2023, and a sign on the door to the store with the 22AKHE logo. Mr. Susky also authenticated exhibit 1016J, which is a photo taken by Ms. Dill of booklet 0836 at the same location on the same date.
87. Mr. Susky further testified that he returned to Duane’s with Ms. Dill on December 2, 2023, and again observed petition booklets unmonitored and unattended on the front table.
88. Mr. Susky authenticated exhibit 1017I, which is a video he took of booklets 0836 and 1401, accompanied by pens, at Duane’s on December 2, 2023. Video exhibit 1017I shows a woman in glasses asking if Mr. Susky wants to sign the booklets. This woman was not present in video exhibits 1017F or 1017G on October 27, 2023, or exhibit 1017H on November 11, 2023.
89. Mr. Susky further testified that he returned to Duane’s with Ms. Dill on December 16, 2023, and again observed petition booklets unmonitored and unattended on the front table.

90. Mr. Susky authenticated exhibit 1017J, which is a video he took of the same booklets 0836 and 1401 left unmonitored and unattended, and accompanied by pens, at Duane's on December 16, 2023. Video exhibit 1017J shows no one near the booklets, no one paying any attention to the booklets from afar, and no one monitoring anyone walking through the door and approaching the booklets.
91. The Court finds Mr. Susky's testimony, as stated above, to be relevant, but duplicative, and credible.

8. Marcie Wilson's Testimony

92. Ms. Wilson testified via telephone.
93. Ms. Wilson testified that she went to the Alaska State Fair on August 19, 2023, and observed petition booklets on a table at the Club "Booth." Ms. Wilson testified that no one was sitting at the table with the petitions.
94. Ms. Wilson authenticated exhibit 1022A, which is a video she took of two petition booklets at the Club "Booth" at the Alaska State Fair on August 19, 2023. One booklet is visible as booklet 0630 (exhibit 2379). The video shows a woman in black signing a petition booklet while a woman in a red jacket is nearby but is not asking anyone whether they are a registered voter.
95. Ms. Wilson further testified to returning to the Alaska State Fair on August 21, 2023, and seeing a petition booklet at a different booth.
96. Ms. Wilson authenticated exhibit 1022B, which is a video she took of booklet 0616 (exhibit 2369) at the Alaska Outdoor Access Alliance "Booth" at the Alaska State Fair on August 21, 2023.
97. Ms. Wilson further testified to going back to the Club "Booth" at the Alaska State Fair on August 21, 2023.

98. Ms. Wilson authenticated exhibit 1022C, which is a video she took of a male circulating booklet 0690 (exhibit 2416) at the Club “Booth” at the Alaska State Fair on August 21, 2023.
99. The Court finds Ms. Wilson’s testimony, as stated above, to be relevant and credible.

9. John “Jay” Costa’s Testimony

100. Mr. Costa testified in person at trial. The Court also reviewed the designated portions of Mr. Costa’s videotaped deposition.
101. Mr. Costa testified that he graduated from Harvard in 2009.
102. Mr. Costa testified that he has prior experience gathering signatures as a circulator.
103. Mr. Costa testified that he founded and has worked for eQual Public Benefit Corporation (“eQual”) for approximately four years, and that he started doing work with respect to signature gathering in 2016.
104. Mr. Costa testified that eQual is a public benefit company that evaluates signatures for petitions.
105. Mr. Costa testified that eQual has worked in fifteen states (including Alaska), and that he and eQual have analyzed millions of signatures.
106. Mr. Costa testified that he and eQual have evaluated signatures for approximately three dozen signature gathering campaigns.
107. Mr. Costa testified that he personally has likely reviewed over 100,000 signatures through his work with eQual.
108. Mr. Costa testified that eQual’s work is generally the same whether it is to confirm that an active signature gathering campaign has a sufficient number of signatures to qualify prior to filing, or to evaluate after the fact whether a filed petition submitted a sufficient number of qualified signatures.

109. Mr. Costa testified that, before the beginning of every project, he would train eQual employees on what to look for on a signature-by-signature basis.
110. Mr. Costa testified that he was retained by the Plaintiffs to review the signatures submitted by 22AKHE in April 2024.
111. Mr. Costa testified that he was paid \$1 per signature for his initial review and the drafting of his expert report, and that he would be paid at the hourly rate of \$250 for any additional work after the writing of his expert report.
112. Mr. Costa was qualified as an expert in petition signature gathering, and in signature and petition booklet verification.
113. Mr. Costa testified that, in this case, he had approximately two dozen eQual employees reviewing the scans of 22AKHE petition booklets, and that it took them over two weeks to review those signatures.
114. Mr. Costa testified that these eQual employees did not know the reason why they were evaluating the signatures in the petition, and that they did not review Plaintiffs' Complaint prior to or during their initial review work.
115. Mr. Costa testified that eQual's employees were given a random set of petition booklets to review, and that their information was input into a database.
116. Mr. Costa testified that eQual reviewed and input data for all 41,349 signatures that were submitted by 22AKHE.
117. Mr. Costa testified that certain signatures in petition booklets were flagged for being facially deficient.
118. Mr. Costa testified that he had reviewed a stipulation by the parties regarding those facially deficient signatures, which identified only two remaining signatures in dispute (located at exhibit 2641).
119. Mr. Costa testified that it was his opinion that the two challenged signatures contained in exhibit 2641 are "pretty illegible," and should not be counted.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Case No. 3AN-24-05615CI

Medicine Crow, et al. v. Beecher, et al.

Page 20 of 95

120. Mr. Costa testified that, in addition to these facial deficiencies, he also analyzed whether there were patterns of suspicious signature gathering behavior that were suggested by the data. Mr. Costa testified that this was a higher order analysis that could only be done once all of the data from each of the signature lines had been input into eQual's database.
121. Mr. Costa testified that there were four subcategories of what he deemed to be suspicious patterns that he was able to detect in the data: (1) circulators who had three or more booklets with signatures containing overlapping dates ("3+ simultaneous start"); (2) abnormally large signature totals in a single day ("high single day"); (3) handwriting aberrations that were apparent on the circulator affidavits ("handwriting aberrations"); and (4) booklets containing a large (more than 3) number of signatures after the date listed on the circulator affidavit ("post-dated signatures").
122. Mr. Costa testified that these four patterns of what he deemed to be suspicious signature gathering behavior were based on his objective review of the data, and were not based on any outside evidence or information.
123. Mr. Costa testified that this suspicious circulator activity that showed up in the data warranted further inquiry, because it may evince potential fraud.
124. Mr. Costa testified that there were over 11,000 signatures total in petition booklets gathered by circulators that fell into one or more of the subcategories listed above. Mr. Costa testified that, in his opinion, this large number demonstrates that suspicious activity was endemic to the campaign.
125. Mr. Costa testified that if no adequate explanation is provided about the circulators that he flagged as being suspicious, in his opinion, *all* petition booklets from those circulators should not be counted or relied upon.
126. Mr. Costa testified that, if the over 11,000 signatures total in petition booklets gathered by circulators that fell into one or more of the

subcategories listed above were disqualified, then it would be enough to disqualify 22AKHE on the basis of both the total number of signatures required and the 30 out of 40 house district threshold. Mr. Costa testified that if he had been advising the 22AKHE campaign, he would have told the campaign that, in his opinion, it does not have enough valid signatures to qualify for the ballot.

127. Mr. Costa testified that, in his experience, he would elevate this potentially suspicious activity to any campaign he was advising, and that he similarly would recommend that the campaign not rely on or submit signatures from individuals who were identified as exhibiting the suspicious activity noted above without further explanation.
128. Mr. Costa testified that, in his opinion, Mr. Izon, as one of the leaders of the campaign, having fallen into two of the subcategories, created a particularly concerning situation and a conundrum with respect to how he would have proceeded if he had been retained to advise 22AKHE.
129. With respect to the 3+ simultaneous start, Mr. Costa explained that, in his opinion, there was no good reason for a circulator to be gathering signatures in more than three petition booklets at once in Alaska. This is because of Alaska's single circulator requirement, the large number of lines for signatures in each petition booklet (150), and the number of signatures that both paid and volunteer circulators are generally able to collect in a single day. Stated differently, Mr. Costa testified that, in his opinion, having three or more petition booklets circulating at once makes it less plausible that a circulator was interacting with voters in accordance with Alaska law, in terms of signatures being made in his or her "actual presence" and in terms of a petition booklet only being circulated by a single individual.

130. Mr. Costa testified that his opinion of what “actual presence” requires is that a circulator must “witness” or be “directly involved” with a voter’s signing of a petition. Mr. Costa testified that this opinion is based on his experience with signature gathering, and derived from requirements (3), (4) and (5) listed for each certification affidavit.
131. Mr. Costa testified that (as shown in the table located at pages 8-9 of exhibit 1055) there were twenty-eight circulators who had three or more petition booklets with overlapping signature dates.
132. Mr. Costa testified that sixteen circulators had three or more petition booklets with a simultaneous start, i.e., that a circulator began gathering additional signatures in a third (or greater number) petition booklet, even though they were still gathering signatures in two (or more) other petition booklets. Mr. Costa further testified that this narrowing of flagged individuals to only those with a “3+ simultaneous start” was, in his opinion, a more conservative, but reasonable, way to quantify what he deemed to be suspicious circulator activity based on data alone.¹³ Mr. Costa, however, conceded that there were many reasonable explanations for why circulators might engage in this practice, but that circulators needed to have a “good reason” for doing this. He admitted that his “good reason” requirement was not found in the law.
133. Mr. Costa testified that, in his opinion, the sixteen circulators that he identified through his 3+ simultaneous start analysis – which comprised approximately 20% of the total signatures gathered for 22AKHE – was, in

¹³ The circulators with a “3+ simultaneous start” included: 1) Phillip Izon; 2) Robert Coulter; 3) Kathryn McCollum; 4) James Stocker; 5) Mikaela Emswiler; 6) Trevor Jepsen; 7) Kelly Nash; 8) Colleen Sherman; 9) Barbara Tyndall; 10) John Whisamore; 11) John Miller; 12) Sharon Wessels; 13) Kathleen Fogle; 14) Brenda Sage; 15) Theodorus Ransom; 16) Lisa Houck; and 17) Victoria Gotthardt.

his opinion, a particularly high instance of what he deemed to be suspicious activity.

134. Mr. Costa testified that he also flagged six individuals for gathering what he considered an atypically large number of signatures (150+) in a particular day (exhibit 1055, at 19).¹⁴
135. Mr. Costa testified that he identified any time a circulator purported to have gathered over 150 signatures in a single day because it gave him high confidence that it was outside of the norm, and each petition booklet in Alaska contains 150 signature lines.
136. Mr. Costa testified that, according to his company's database of millions of signatures, on average, a paid signature gatherer gathers 31 signatures in a single day.
137. Mr. Costa testified that, according to his company's database of millions of signatures, on average, a volunteer signature gatherer gathers 8 signatures in a single day.
138. Mr. Costa testified that, according to his company's database of millions of signatures, 99.75% of the time, a paid signature gatherer will collect fewer than 150 signatures in a single day.
139. Mr. Costa testified that, according to his company's database of millions of signatures, 99.94% of the time, a volunteer signature gatherer will collect fewer than 150 signatures in a single day.
140. Mr. Costa testified that, if he were advising a campaign, in his opinions, he would recommend that they not rely on or turn in any booklets from circulators who were flagged for having such high single day totals.
141. Mr. Costa acknowledged that he did not know about large crowds of Alaskans gathering at meetings or at public events, such as Fur Rendezvous

¹⁴ The circulators with atypically large numbers of signatures included: 1) Phillip Izon; 2) Linn McCabe; 3) Carmen Durham; 4) Kathryn McCollum; 5) Gerald Hooper; and 6) Jesse Baise.

in Anchorage, the Eagle River Bear Paw Festival, the Alaska Outdoorsman Show in Wasilla, and the Alaska State Fair in Palmer.¹⁵

142. Mr. Costa also acknowledged that the tactic of publicizing a signing event at a location where booklets would be for people to come and sign was a good strategy for collecting signatures, and one that he himself had recommended to initiative sponsors.
143. Mr. Costa also admitted that he had no evidentiary basis for claiming that the voters who signed booklets did not actually sign the booklets on the large single collection days in question.
144. Mr. Costa testified that two individuals — Mr. Izon and Ms. McCollum — showed up on both the 3+ simultaneous start and high single day tables. Mr. Costa characterized their activities and booklets in particular as being highly suspicious according to the data alone.
145. Mr. Costa testified that three individuals — Mr. Coulter, Ms. Berg Smith, and Carmen Durham — all exhibited aberrant handwriting on their circulator affidavits.
146. Mr. Costa testified that his flagging of Mr. Coulter appeared to have been correct, since Mr. Coulter testified that another individual (Catherine “Kit” Rittgers) had filled out some portions of his circulator affidavits.
147. Mr. Costa testified that, in his opinion, Ms. Berg Smith’s aberrant handwriting remained suspicious and was the most suspicious to him in this category. Mr. Costa maintained his opinion after seeing exhibit 3011,

¹⁵ In 2023 between August 18 and September 4, 2023, a total of 356,179 people attended the Alaska State Fair (exhibit 3009, p. 4). That amounts to an average attendance of 19,788 people per day. Testimony also reflected that the Alaska Outdoorsman Show that was held at the Curtis D. Menard Memorial Sports Center in Wasilla, Alaska in March 2023 was attended by approximately 10,000 people (an average of 3,300 people per day). The dates of the Alaska State Fair and the Outdoorsman Show in 2023 overlap at least four of the dates on which the circulators collected their large single day totals.

which was Ms. Berg Smith's handwriting samples that were provided to the Court.¹⁶

148. Mr. Costa testified that having more than 3 post-dated signatures in a petition booklet – i.e., signatures that were dated after the date of the signed certification statement – was suspicious in his opinion.
149. Mr. Costa testified that he characterized large numbers of post-dated signatures in petition booklets as suspicious because, in his opinion, it should not be happening, and post-dated signatures also call into question the veracity of the sworn circulator statements for the petition booklets.
150. Mr. Costa testified that, if he were advising a campaign, in his opinion, he would advise that they not count any of the signatures in booklets with such high numbers of post-dated signatures or from these circulators.
151. Mr. Costa confirmed that he had observed “hard evidence” that only a “handful of circulators at least” had left their booklets unattended to gather signatures at a static location or given their booklet to someone else to gather signatures.¹⁷
152. Mr. Costa also affirmed that it is not appropriate to impugn all other circulators because a handful of circulators did not follow the rules perfectly.
153. Mr. Costa confirmed there are challenges of circulating an initiative petition, including maintaining an accurate and real-time view of how many signatures have been gathered, and keeping track of which circulators have which booklets with no signatures.¹⁸

¹⁶ Based on Ms. Berg Smith's testimony that the certifications were all signed by her, the Court will not exclude her booklets on this basis.

¹⁷ 102-103.

¹⁸ Tr. 41-42.

154. Mr. Costa agreed that a grassroots campaign generally has more challenges than a professional campaign because of the inexperienced circulators.¹⁹
155. He also agreed there was a difference between inexperienced circulators making mistakes versus intentional fraud and deliberate rule breaking by campaign leaders.²⁰
156. Mr. Costa testified that signature-gathering campaigns generally target collecting 30% more signatures than are necessary. This creates a cushion for signatures that might be rejected because they were collected from unqualified voters or are otherwise deficient.²¹
157. Mr. Costa testified how his review of deposition and trial testimony for the following individuals strengthened his opinion that their petition booklets should not be counted: (1) Robert Coulter; (2) James Stocker; (3) Kathryn McCollum; (4) Linn McCabe; (5) Colleen Sherman; (6) Kelly Nash;²² (7) Trevor Jepsen; (8) Sharon Wessels; (9) Theodorus Ransum; (10) Natalie Martin; (11) Eric Hughes; (12) Linda Berg Smith; and (13) Phillip Izon.
158. Mr. Costa testified that, in his opinion, the number of signatures Ms. McCabe purported to gather in a single day (307) was “quite striking,” and that he had “grave concern[s]” about whether Ms. McCabe gathered signatures in compliance with the law and, if he were advising a campaign, then he would advise that the campaign not count on or submit any of the signatures gathered in booklets that were certified by Ms. McCabe.
159. Mr. Costa testified that, in his opinion, Ms. Berg Smith’s testimony regarding booklet 0950 (exhibit 2549) shows that Ms. Berg Smith did not follow the law when gathering signatures, and the signatures on Ms. Berg

¹⁹ Tr. 42-43.

²⁰ Tr. 44-45.

²¹ Tr. 42.

²² Mr. Costa testified that he reviewed the deposition transcript from when Ms. Nash did not appear for her scheduled deposition.

Smith's circulator affidavits contained "very aberrant handwriting." Thus, if he were advising a campaign, he would recommend that the campaign not accept any of the petition booklets certified by Ms. Berg Smith.

160. Mr. Costa testified that, if he were advising a campaign, in his opinion, he would recommend that they not submit or rely on any of the booklets that Mr. Coulter circulated because Mr. Coulter also admitted to not properly circulating at least one of the booklets where he signed the sworn circulator affidavit.
161. Mr. Costa testified that he has "grave concerns" about whether Ms. McCollum gathered signatures in compliance with the law because it appeared that one of Ms. McCollum's booklets was being circulated by somebody else at the State Fair. Thus, if he were advising a campaign, then he would advise that none of Ms. McCollum's booklets should be submitted or relied upon.
162. Mr. Costa testified that Mr. Izon was the "most suspicious" circulator according to his review of the data.
163. Mr. Costa testified that, in his opinion, "it strains the limits of credulity" that Mr. Izon lawfully gathered 580 signatures in a single day, and that he could not "really see how it is possible" because there is a natural limit if a circulator is directly involved in the signature-gathering process.
164. Mr. Costa also testified that he had analyzed Mr. Izon's petition booklets, and that, in his opinion, they did not exhibit any pattern showing that the booklets were segregated by house district.
165. Mr. Costa testified that, if he were advising a campaign, in his opinion, he would advise that none of the booklets involving Mr. Ransom could "be trusted," in part because Mr. Ransom admitted to falsely signing circulator affidavits for "several" booklets.

166. Mr. Costa testified that, if he were advising a campaign, in his opinion, he would advise that the campaign not rely on or trust any of the petition booklets (0938, 0950, 1316; exhibits 2542, 2549, 2593) that Mr. Hughes certified because he falsely certified a circulator affidavit that contained over a hundred signatures that he did not gather, and he gave two uncertified petition booklets to Mr. Coulter.
167. Mr. Costa testified that, if he were advising a campaign, he would advise that the campaign not rely on or trust any of the petition booklets (1319, 1320, 1327, 1328, 1330; exhibits 2597A, 2597B, 2602, 2603, 2605) that Mr. Jepsen certified because he admitted to falsely certifying a circulator affidavit, which calls into question the veracity of his other sworn circulator affidavits.
168. Mr. Costa testified that, if he were advising a campaign, in his opinion, he would recommend that the campaign not rely on any of Ms. Martin's petition booklets because of Ms. Martin's testimony in response to reviewing a video showing one of her booklets (0694; exhibit 2419) being circulated by individuals other than herself.
169. Mr. Costa testified that, if he were advising a campaign, in his opinion, he would recommend that the campaign not rely on or submit any of Ms. Sherman's petition booklets, because they "should not be trusted" because she allowed another individual to collect signatures in one of her booklets.
170. Mr. Costa testified that, if he were advising a campaign, in his opinion, he would advise that the campaign not rely on or trust any of the petition booklets (0416, 0417, 0461, 0462, 0463, 0464; exhibits 2265, 2266, 2292, 2293, 2294, 2295) that Mr. Stocker certified because he pled the Fifth Amendment.

171. Mr. Costa testified that, if he were advising a campaign, in his opinion, he would advise that the campaign not rely on or trust any of the petition booklets (0392, 0636, 0637; exhibits 2253, 2385, 2386) that Ms. Wessels certified because her booklets were co-circulated with her husband.
172. The Court finds Mr. Costa's factual testimony, as stated above, to be relevant and credible. However, as discussed further below in the Conclusions of Law section, the Court does not agree with many of Mr. Costa's opinions or characterizations.

10. Michaela Thompson's Testimony

173. Ms. Thompson testified in person.
174. Ms. Thompson testified that she is the Division Operations Manager for the Division of Elections, that she has worked for the Division for approximately seven years, and that she has overseen the Division's review of filed petitions.
175. Ms. Thompson testified that she oversaw the review of the filing of 22AKHE.
176. Ms. Thompson testified that the Division counted the signature at booklet 0470, page 5, line 2 (Exhibit 2641) because it appeared to her that the voter provided the month and the date that they signed (although the month and date were provided on a different line than the voter's signature) Ms. Thompson testified that it is the Division's practice to count signatures with dates that do not include the year.
177. Ms. Thompson testified that the voter used two lines to provide his information so the Division only counted it as one signatures.
178. Ms. Thompson testified that the Division counted the signature at booklet 0902, page 4, line 8, (Exhibit 2641) because it had what appeared to her to be ditto marks for the date, indicating that the voter signed the petition on

the same date that was listed above. Ms. Thompson testified that it is the Division's practice to count signatures with ditto marks in the date.

179. Ms. Thompson testified that some of 22AKHE's petition booklets were returned to the Sponsors when they filed on January 12, 2024, because they were facially deficient. Ms. Thompson agreed that fifteen (15) facially-defective 22AKHE petition booklets were returned to the custody of the Sponsors on that day.
180. Ms. Thompson testified that the Division did not record which 22AKHE petition booklet numbers were returned to the Sponsors on January 12, 2024.
181. The Court finds Ms. Thompson's testimony, as stated above, to be relevant and credible.

11. Linn McCabe's Testimony

182. Ms. McCabe testified in person.
183. Ms. McCabe testified about how she gathered signatures and signed circulator affidavits for multiple 22AKHE petition booklets (0183, 0184, 0311, 0696; exhibits 2122, 2123, 2195, 2421).
184. Ms. McCabe testified that she is the vice president of programs for the Club.
185. Ms. McCabe testified that she had never had prior experience gathering signatures before gathering signatures for 22AKHE and she does not remember receiving any training or watching any videos about how to gather signatures for 22AKHE.
186. Ms. McCabe testified that she gathered signatures at the Mat-Su Outdoorsman Show on March 25, 2023. She worked a "Booth" near a corner that attracted a steady stream of signers.
187. Ms. McCabe testified that she gathered 307 signatures at the Mat-Su Outdoorsman Show event on March 25, 2023, in a four- to five-hour

- period. Ms. McCabe testified that she knew that she gathered that many signatures because she saw a screenshot from a news article (Must Read Alaska) which indicated how many signatures she gathered that day.
188. Ms. McCabe testified that she was not the only person gathering signatures during her shift at the Club “Booth.” She testified that there were maybe four people with separate booklets collecting signatures during her shift.
189. Ms. McCabe testified that Mr. Izon dropped off additional booklets to members of the Club on March 25, 2023 because it was so busy.
190. Ms. McCabe testified that she also collected additional signatures at the Alaska State Fair on multiple days. She testified that the “Booth” was near the entrance so as to get the most foot traffic.
191. Ms. McCabe testified that nobody else had permission to carry any of the booklets that she certified.
192. Ms. McCabe was shown exhibit 1012I. Ms. McCabe identified the woman in the video as Nan Potts, and could not identify herself in the video.
193. Ms. McCabe testified that she did not give Ms. Potts one of her petition booklets to circulate, and that she never intended to have Ms. Potts gather signatures in one of her booklets.
194. Ms. McCabe was then shown the previously admitted exhibits 1018J and 1018K.
195. Ms. McCabe testified that she likely stepped away during the time when the short video was taken. Ms. McCabe testified that she carried her booklets with her to and from the Fair whenever she went there to collect signatures and that if her booklet 0696 (exhibit 2421) was there, then she was there also.
196. She testified that when she worked at collecting signatures at the Fair, she would step inside the trailer from time to time to take a coffee break and perhaps occasionally would leave her book on the table while she did so.

She testified that she never intended to abandon her booklets when she stepping to the trailer or away from the table. Ms. McCabe testified that she was not aware of anyone signing her booklets when she was not present.

197. Despite reviewing these photographs and video, Ms. McCabe stood by her certification for petition booklet 0696 (exhibit 2421).
198. The Court finds of Ms. McCabe's testimony stated above to be relevant and credible.

12. Linda Berg Smith's Testimony

199. Ms. Berg Smith testified in person at trial. The Court also reviewed the designated portions of Ms. Berg Smith's videotaped deposition.
200. Ms. Berg Smith testified that she collected a lot of signatures for 22AKHE.
201. Ms. Berg Smith testified that, among other places that she collected signatures, she collected signatures at the Alaska State Fair for one day for about six or seven hours, and that there was frequently a line of people wanting to sign. She explained that the "Booth" was near the Fair entrance.
202. Ms. Berg Smith testified that the signatures in booklets that she certified (1315, 1318, 1334, 1349, 1383; exhibits 3005A-E, 2592, 2596, 2607, 2616, 2630) were done in her own handwriting. She further testified that sometimes her signature looks different, and that she does not take great care in ensuring that her signatures are identical.
203. Ms. Berg Smith signed and printed different versions of her name on a piece of paper, which was admitted as exhibit 3011.
204. Ms. Berg Smith testified that she remembers seeing a video during her deposition of video showing her collecting signatures in petition booklet 0950 (exhibit 2549) and she learned that booklet 0950 was ultimately certified by Eric Hughes.

205. Ms. Berg Smith testified that she does not know Mr. Hughes and does not know how a booklet that she collected signatures in was ultimately certified by somebody other than herself.
206. Ms. Berg Smith watched exhibit 1020E, and identified herself and the other person she was with that day as "Donna." Ms. Berg Smith did not know Donna's last name.
207. Ms. Berg Smith testified that she collected all of the signatures in petition booklet 0950 (exhibit 2549) on August 19, 2023, at the State Fair. This was about a total of 80 signatures.
208. The Court finds Ms. Berg Smith's testimony, as stated above, to be relevant and credible.

13. Robert Coulter's Testimony

209. Mr. Coulter testified in person at trial. The Court also reviewed the designated portions of Mr. Coulter's videotaped deposition.
210. Mr. Coulter testified that he had never had any prior experience gathering signatures before this.
211. Mr. Coulter consistently testified that, in general, he would only gather signatures in one petition booklet at a time, but that he would sometimes carry two petition booklets with him.
212. Ms. Coulter testified that he would take his booklets to places where people gathered, like gun shows or church.
213. Mr. Coulter repeatedly testified that he would "occasionally" leave petition booklets that he certified unattended, but that he never left his booklets unattended with the intention of having people sign them when he was not present.²³ He waived on whether he left booklets to "run errands."

²³ Tr. 38.

214. Mr. Coulter was unable to identify which of his petition booklets he left unattended. Additionally, he was unable to testify whether or not someone signed his petition booklets when they were left unattended.
215. Mr. Coulter also testified that he gave a petition booklet to a friend of his, who then collected additional signatures in that booklet from his wife and kids. Mr. Coulter did not say who his friend was, but testified that his last name was "Rogers," and that the booklet that he gave Mr. Rogers should contain four signatures that were all signed together (Mr. Rogers, his wife, and two children).
216. No petition booklet, including those certified by Mr. Coulter, contains four signatures with the last name "Rogers" in succession. However, there are two signatures with the last name "Rogers" in succession in booklet 472, which was certified by Mr. Coulter.
217. Mr. Coulter testified that all of the certification signatures on booklets that he circulated (0010, 0011, 0021, 0031, 0055, 0472, 0476, 0794; exhibits 3004A-H, 2007, 2008, 2016, 2025, 2041, 2301, 2305, 2466) were his own. He further testified that, sometimes, some of the information on the certification affidavit section was filled out by Catherine "Kit" Rittgers, but that he signed each of those petition booklets.
218. Mr. Coulter's testimony regarding how Ms. Rittgers filled out a portion of many of his circulator affidavits is consistent with Mr. Costa's expert report and testimony flagging Mr. Coulter's circulator affidavits as appearing to contain more than one handwriting.
219. Mr. Coulter at first repeatedly testified that no other circulators ever turned petition booklets into him.²⁴

²⁴ Tr. 14, 31.

220. After further questioning, Mr. Coulter admitted to receiving one petition booklet from Mr. Hughes.²⁵ Mr. Coulter testified that Mr. Hughes “had a signed book, and then . . . he gave it to me.”²⁶
221. Mr. Coulter ultimately admitted that he “signed that book instead of Eric [Hughes].”²⁷ Mr. Coulter admitted that the “rule was broken at that point” for booklet 0476 (exhibit 2305).
222. Mr. Coulter testified that he only received one un-certified petition booklet from Mr. Hughes, and that he only improperly certified that one.²⁸
223. Mr. Coulter testified that he was unaware that Mr. Hughes testified during his deposition that he had actually given Mr. Coulter two uncertified petition booklets.
224. Mr. Coulter also stated that Linn McCabe had given him an un-certified petition booklet, and then he arranged to meet up with her so that she could certify it.
225. Mr. Coulter stated that he would sometimes keep unfinished petition booklets in his car or in his home, and that he would just pick up any booklet that had space in them before gathering signatures.
226. The Court finds Mr. Coulter’s testimony, as stated above, to be generally credible and relevant. However, Mr. Coulter was also inconsistent in a number of other irrelevant areas.

14. John Whisamore’s Testimony

227. Mr. Whisamore testified in person.
228. Mr. Whisamore testified that he had never had any prior experience gathering signatures before this.

²⁵ Tr. 34-35.

²⁶ Tr. 35.

²⁷ Tr. 35.

²⁸ Tr. 36.

229. Mr. Whisamore testified that he helped Mr. Izon gather signatures at events at the Palmer Train Depot on February 21, 2023. He described the large crowds of people who came to the event and also how he saw Mr. Izon collecting lots of signatures at multiple tables within his eyesight and earshot with multiple booklets displayed at once. Mr. Whisamore described how Mr. Izon was able to observe and communicate with the voters signing the booklets.
230. Mr. Whisamore testified that he followed the instructions in the petition booklets when gathering signatures and that the instructions in the petition booklets were, in his opinion, simple, easy to understand, and important to follow.
231. Mr. Whisamore testified that he only put out two booklets at once at the most when he was gathering signatures, he may have gathered signatures in five petition booklets before they were all filled out and certified.
232. The Court finds Mr. Whisamore's testimony, as stated above, to be relevant and credible.

15. William Quantick's Testimony

233. Mr. Quantick testified in person. The Court also reviewed Mr. Quantick's testimony through designated videotaped deposition testimony.
234. Mr. Quantick testified that he did not have prior experience gathering signatures, and that he did not receive any training or instructions about how to gather signatures.²⁹
235. Mr. Quantick was the first one to sign one of the petition booklets that he circulated (booklet 0450; exhibit 2287). Mr. Quantick's signature is from March 6, 2023, which is the same day that he certified that petition booklet.

²⁹ Tr. 19, 26-27.

236. Mr. Quantick testified that he signed his sworn certification statement on the same day that he started gathering signatures in each of his petition booklets (0450, 0616, 0684; exhibits 2287, 2369, 2413).
237. Mr. Quantick could not recall whether he signed his circulator statements at the end of the day when he first started gathering signatures, or at the beginning of the day before he started gathering any signatures.
238. Mr. Quantick testified that he was never told that he needed to sign his sworn circulator affidavit after he finished gathering signatures, and he did not read the sworn circulator statement in its entirety when he signed the self- certification.
239. Mr. Quantick testified that he then began gathering signatures in that one booklet, primarily at the Matanuska-Susitna Sportsman Show.³⁰
240. Mr. Quantick testified that he also gathered signatures at the Alaska State Fair, that he turned in the booklets after the conclusion of the Fair, and that he did not gather any additional signatures after the Fair.³¹
241. Mr. Quantick Testified that he did not get any additional signatures in petition booklet 0450 (exhibit 2287) after Match 6, 2023, because “that was that Sportsman Show” and he “didn’t collect any more signatures after that.”
242. The Court finds Mr. Quantick’s testimony, as stated above, to be relevant and credible.
243. But the Court also finds that Mr. Quantick did not have a good memory or consistent explanation for matters that were not relevant, such as where he obtained his booklets.

³⁰ Tr. 14-15.

³¹ Tr. 18-19.

16. Mikaela Emswiler's Testimony

244. Ms. Emswiler testified in person at trial. The Court also reviewed Ms. Emswiler's testimony through designated videotaped deposition testimony.
245. Ms. Emswiler testified that she is the sole owner of Top Fundraising Solutions, LLC ("TFS").
246. Ms. Emswiler testified that, initially, she was a volunteer for the 22AKHE signature gathering campaign.
247. Ms. Emswiler testified that sometime in the summer or fall of 2023, TFS entered into an oral contract with Alaskans for Honest Elections ("AHE") to help organize a paid signature drive and manage signature gathering in Anchorage.³²
248. Ms. Emswiler testified that she had never had prior experience gathering signatures or working on a signature gathering campaign, and when she first got her petition booklet, she did not receive any additional instructions about how to gather signatures.³³
249. Ms. Emswiler testified that the first phase of TFS's work with AHE was to manage sending signature gatherers to Dillingham. Ms. Emswiler testified that she was paid a little over \$3,000 for this work, and that it was in the form of a reimbursement for travel expenses for the signature gatherers who went to Dillingham.
250. Ms. Emswiler testified that the second phase of TFS's work with AHE concerned paid signature gathering in Anchorage. For this second phase of work, Ms. Emswiler testified that TFS was paid \$15,000 by AHE, which included funds to be paid to circulators to gather signatures.
251. Ms. Emswiler testified that she started her work managing the signature gathering process in Anchorage in the summer of 2023, and that this initial

³² Tr. 14, 17, 21.

³³ Tr. 15-16.

work entailed getting a sense of who had volunteered to gather signatures and how many signatures had been gathered in the Anchorage area.

252. As part of this process, Ms. Emswiler testified that she had access to the Master Spreadsheet that Mr. Izon had been using.³⁴
253. Ms. Emswiler testified that she created her own spreadsheet ("Anchorage Spreadsheet" exhibit 1053) of just the Anchorage volunteers and booklets, in part because she believed that the Master Spreadsheet was full of errors.
254. Ms. Emswiler testified that she relied on the Anchorage Spreadsheet, and not the Master Spreadsheet, at the end of the signature gathering campaign.
255. Ms. Emswiler testified that, for the paid signature gathering, circulators would be paid \$4 per signature.
256. Ms. Emswiler testified that it was a joint decision to pay circulators \$4 a signature.³⁵
257. Ms. Emswiler testified that when she was in charge of signature gathering in Anchorage, she would give circulators petition booklets.
258. Ms. Emswiler testified that she would pick up booklets from Dr. Mathias as needed, because Dr. Mathias was the point person to get petition booklets from in Anchorage.³⁶
259. Ms. Emswiler testified that when she was giving circulators petition booklets, there were plenty of petition booklets available, and so there was no need to re-assign any petition booklets.³⁷
260. Ms. Emswiler testified that she never gave circulators any written instructions about how to gather signatures in compliance with the law.
261. Ms. Emswiler initially testified that she never gave petition booklets with signatures already in them to circulators.³⁸

³⁴ Tr. 20.

³⁵ Tr. 33.

³⁶ Tr. 16, 18-19, 21.

³⁷ Tr. 22.

262. Ms. Emswiler later testified that one circulator came to her saying that they were given a petition booklet that already had signatures in it.³⁹
263. Ms. Emswiler testified that circulators would bring petition booklets to her, and then TFS would pay them \$4 a signature for the signatures in the booklets.
264. Ms. Emswiler testified that if she was unable to track down who had submitted a petition booklet with an unsigned certification, it was on Mr. Izon to track the person down and get them to sign the circulator affidavit.⁴⁰
265. Ms. Emswiler testified that she would keep the petition booklets that she received locked in the Wellspring building.⁴¹
266. Ms. Emswiler testified that although she checked a box indicating that she had not been paid to gather signatures for one of her booklets (1333; exhibit 2606), she should have checked the "yes" box because she was paid to gather signatures in that booklet.⁴²
267. Ms. Emswiler testified that she was surprised to learn that Mr. Ransum had certified a petition booklet that had been left at Tudor Bingo, and that she had no explanation for why that happened.⁴³
268. Ms. Emswiler testified that she was surprised to learn that Mr. Hughes had certified a petition booklet (0950; exhibit 2549) that had signatures in it from when he was traveling outside of Alaska, and that she had no explanation for why that happened.⁴⁴

³⁸ Tr. 21-22.

³⁹ Tr. 73-74.

⁴⁰ Tr. 23-24.

⁴¹ Tr. 22.

⁴² Tr. 52, 54.

⁴³ Tr. 64.

⁴⁴ Tr. 64-66.

269. Ms. Emswiler testified that she had not heard that Ms. Berg Smith had been gathering signatures in a booklet that Mr. Hughes ultimately certified, and that she had no explanation for how that could have happened.⁴⁵
270. Ms. Emswiler testified that she knew that petition booklets were available at Duane's and Tudor Bingo in Anchorage.⁴⁶
271. Ms. Emswiler testified that she had not been notified of, and was not aware of, any problems or complaints about those locations that came from the Division.⁴⁷
272. Ms. Emswiler testified that she remembered Gregory Lee and remembers speaking with Mr. Lee on the phone on November 14, 2023.⁴⁸
273. Ms. Emswiler testified that she understood that booklets must be assigned to people, and not businesses. She said Mr. Lee also asked her whether he could sign certifications on booklets for other people, but she corrected him, and told him no.
274. Ms. Emswiler testified that Mr. Lee obtained two petition booklets from Ms. Rittgers at Wellspring on November 22, 2023.
275. Ms. Emswiler testified that the Anchorage Spreadsheet has highlights for when booklets are turned in, grey shading for when the booklet remains with the circulator, and red when a booklet has been lost.
276. The Court generally finds Ms. Emswiler's testimony, as stated above, to be relevant and credible.
277. But the Court also finds that Ms. Emswiler did not have a good memory or consistent explanation for matters that were not relevant.

⁴⁵ Tr. 68.

⁴⁶ Tr. 71.

⁴⁷ Tr. 71-72, 90.

⁴⁸ The recorded telephone conversation between Mr. Lee and Ms. Emswiler is exhibit 1003A.

17. Kathryn McCollum's Testimony

278. Ms. McCollum testified in person. The Court also reviewed Ms. McCollum's testimony through designated videotaped deposition testimony.
279. Ms. McCollum testified that she is the President of the Mat-Su Republican Women's Club ("the Club").
280. Ms. McCollum testified that she did not receive any materials or training about how to gather signatures and that she did not have any prior experience gathering signatures before this.⁴⁹
281. Ms. McCollum testified that Ms. McCabe was generally in charge of collected circulated petition booklets from members of the Club and that she would turn in completed petition booklets to Ms. McCabe.
282. Ms. McCollum testified that she first started gathering signatures at the Alaska Outdoorsman Show at the end of March 2023.
283. Ms. McCollum testified that there would almost always be two different people with their booklets setting at the Club "Booth" at the Alaska Outdoorsman Show and the booth was in a prime location.⁵⁰
284. Ms. McCollum testified that volunteer shifts at the Club were for between three and four hours.
285. Ms. McCollum testified that she filled up her booklet at the Alaska Outdoorsman Show, and that additional booklets were brought to Club members by Mr. Izon after Ms. McCabe called him.
286. Ms. McCollum testified that it was her recollection that she would only gather signatures at the Alaska Outdoorsman Show one booklet at a time, and that she would only get another booklet after one had been filled up.

⁴⁹ Tr. 29.

⁵⁰ Tr. 20.

The booth was at a strategic location near a main corner of a walkway to attract signers.⁵¹

287. Ms. McCollum testified that she did not swap booklets with anybody else, and that nobody else collected signatures in any of her booklets.
288. Ms. McCollum testified that, in addition to the Alaska Outdoorsman Show, she also collected signatures at the Alaska State Fair.
289. Ms. McCollum testified that she regularly worked together with Ms. Martin collecting signatures at the Alaska State Fair. They worked at the “Booth” near the entrance.
290. Ms. McCollum was shown exhibit 1022E. Ms. McCollum could not identify either of the women in that video who were collecting signatures at the Club trailer at the State Fair on August 19, 2023.
291. Ms. McCollum was shown exhibit 1018H. Ms. McCollum testified that Ms. Martin was not visible in that video, even though her name was printed on the front of a petition booklet (0694; exhibit 2419) in the video that Ms. Martin ultimately certified.
292. Ms. McCollum testified that Ms. Chiappetta came to the “Booth” multiple times prior to September 1, 2023, asking questions and trying to take photographs of the booklets, annoying the women. Ms. McCollum testified that Ms. Martin had stepped away from the table when Ms. Chiappetta approached (Ex. 1018H), either because of her annoyance or to go to the bathroom. However, Ms. Martin remained in the vicinity of the “Booth.”
293. Ms. McCollum testified that no one signed Ms. Martin’s booklet 0694 (Exhibit 2419) during the video on September 1, 2023, or at any other time when Ms. Martin was not present. Ms. McCollum testified that if someone,

⁵¹ There are four petition booklets (0618, 0681, 0682, 0683; exhibits 2371, 2410, 2411, 2412) with signatures from March 26, 2023, when Ms. McCollum testified that she gathered signatures at the Alaska Outdoorsman Show, which were certified by Ms. McCollum.

like Ms. Chiappetta, had wanted to sign, then one of the women present would have given her one of their own, separate, booklets.

294. Ms. McCollum testified that Ms. Martin was at the Fair on the day that the video was taken. She also testified that many of the women, including Ms. Martin, were leery of Ms. Chiappetta's repeated visits to the Club "Booth" over multiple days at the Fair.
295. Ms. McCollum was shown exhibit 1022C. Ms. McCollum testified that the person in that video, who appeared to be collecting signatures in petition booklet 0690 (exhibit 2416), was Mokie Tew.
296. Ms. McCollum testified that she did not give Mr. Tew her booklet 0690 (exhibit 2416), she did not give him permission to gather signatures in booklet 0690. She said she did not give her booklet to anyone for any period of time. She testified that she worked most days at the Fair and would lock her booklets up in the "Booth" at the end of the day so that she could come get them in the next morning. She also testified that she would put her booklets away if she stepped out for a break.
297. Despite seeing video evidence (exhibit 1022C) of Mr. Tew gathering signatures in one of the petition booklets (0690; exhibit 2416) that she certified, Ms. McCollum stood by her certification of that petition booklet. Ms. McCollum testified that she did not know if Mr. Tew collected any signatures in that booklet.
298. Ms. McCollum was shown exhibit 1018I. Ms. McCollum testified that the person in that video is Nan Potts.
299. Ms. McCollum testified that she believed Ms. Potts was gathering signatures in her own petition booklet or booklets and that it would surprise her if Ms. Potts did not certify any petition booklets, because she was gathering signatures in at least one booklet.

300. The Court generally finds Ms. McCollum's testimony, as stated above, to be relevant and credible. While there were inconsistencies between her testimony related to number of booklets started at the Alaska Outdoorsman Show and the petitions themselves, the Court does not find this inconsistency to be relevant, or to impugn her credibility.

18. Phillip Izon's Testimony

301. Mr. Izon testified in person at trial. The Court also reviewed Mr. Izon's testimony through designated videotaped deposition testimony.

302. Mr. Izon testified that he did not have any prior experience running a signature gathering campaign, or gathering signatures, before 22AKHE.

303. Mr. Izon testified that he wrote the language for what was later designated as 22AKHE.

304. Mr. Izon testified that he, along with Dr. Mathias and Ms. Donley, is one of the three Sponsors for 22AKHE.

305. Mr. Izon testified that he was "in charge" of gathering signatures throughout the State of Alaska through approximately August 2023.

306. Mr. Izon testified that, after around August or September 2023, Ms. Emswiler became "in charge" of gathering signatures in Anchorage.

307. Mr. Izon testified that he made the decisions on most things because Dr. Mathias had a limited role in the signature gathering campaign.⁵²

308. Mr. Izon repeatedly testified that, after Ms. Emswiler became in charge of signature gathering in Anchorage, he had very little to do with what happened in Anchorage.

309. Mr. Izon testified that his wife's company (Leading Light Advisors) was paid for doing some work on behalf of the campaign, and he used an email address from that company, but he was never personally paid or compensated for his work gathering signatures for 22AKHE.

310. Mr. Izon testified that he himself gathered signatures for 22AKHE, along with managing and overseeing the signature gathering campaign as a whole.
311. Mr. Izon testified that he made videos and prepared materials to inform signature gatherers about how to properly gather signatures.
312. Mr. Izon testified that he created these videos with materials from the Division, and that the language he used was “verbatim.”⁵³
313. Exhibit 1032 is a one-page sheet of instructions that Mr. Izon testified he gave to circulators.⁵⁴
314. Exhibit 1037 contains language of instructions that Mr. Izon testified were provided to every circulator.⁵⁵
315. Exhibit 1045 is a script from one of the videos that Mr. Izon testified he created, and Exhibit 1047D is a version of that video.⁵⁶
316. Mr. Izon repeatedly testified that the original kick-off event at Wellspring on February 16, 2023, was “chaotic” because there were so many people there, there was not a good system to track who had taken what petition booklets, and the organization did not have an effective structure to manage the campaign at that time.⁵⁷

⁵² Tr. 25.

⁵³ Tr. 43-45. Exhibits 1009, 1013, 1028, and 1029 are Division materials that include information about circulator requirements. They all include information about how signatures must be added in a circulator’s actual presence.

⁵⁴ These instructions did not include any information about how all signatures must be added to petition booklets in the circulators’ actual presence.

⁵⁵ These instructions did not include any information about how all signatures must be added to petition booklets in the circulators’ actual presence.

⁵⁶ These instructions did not include any information about how all signatures must be added to petition booklets in the circulators’ actual presence.

⁵⁷ See Tr. 34-36.

317. Mr. Izon originally testified that he believed he gathered signatures in no more than three booklets during the February 16, 2023, event.⁵⁸
318. Mr. Izon later testified that he circulated multiple petition booklets on multiple tables during that kick-off event, and that he would make sure that he would pick up each booklet and bring them with him when he left a table.
319. Mr. Izon testified that he was at the Palmer Train Depot for approximately 6 to 8 hours gathering signatures on February 21, 2023. He rented the facility and set up tables for the entire day to collect signatures. Mr. Izon explained that he sent out social media posts announcing that he would be at the Train Depot with petition booklets to collect signatures and inviting people to come and sign. Later a representative from a local radio station came to the Train Depot and broadcast that Mr. Izon was at the train depot and encouraged them to come. He explained that former Governor Sarah Palin also came to the Train Depot to help promote the signing event (exhibit 3001).
320. Mr. Izon testified that February 21, 2023, “was another really crazy day.”⁵⁹
321. Mr. Izon testified that he would have 4-5 petition booklets out at any one time, and that they were all within arm’s length.
322. Mr. Izon testified that he’s “just really good” at collecting signatures, which is why he was able to gather 580 signatures in a single day.
323. Mr. Izon repeatedly testified that he was “standing in front of” any signers of his petition booklets.⁶⁰ Mr. Izon suggested that in order for a signature to have been made in his “actual presence,” in his opinion, it would need to

⁵⁸ Tr. 164. Mr. Izon ultimately certified seven (7) petition booklets (0016, 0017, 0018, 0019, 0029, 0030, 0125; exhibits 2012, 2013, 2014, 2015, 2023, 2024, 2086) that had signatures from February 16, 2023.

⁵⁹ Tr. 172.

⁶⁰ Tr. 70.

- have been within approximately 6 feet of him.⁶¹ Mr. Izon also testified that he never allowed anybody to sign more than 20 feet away from him.⁶²
324. Mr. Izon testified that he only had petition booklets on one table at the Palmer Train Depot on February 21, 2023.⁶³
325. Mr. Izon testified consistently that he had originally tried to segregate his petition booklets by house district, but that he abandoned this practice around the middle of the signature gathering campaign.
326. Mr. Izon testified that he originally relied on the Master Spreadsheet (exhibit 1038) to locate and assign petition booklets to circulators.⁶⁴ Mr. Izon testified that he first created the Master Spreadsheet by importing information from a database that he created on the Alaskans for Honest Elections (“AHE”) website.
327. Mr. Izon testified that he received communications from the Division about how petition booklets were left unattended at Duane’s in July 2023.
328. Mr. Izon testified that he called and spoke with somebody at Duane’s, or Duane himself, to make sure that they were properly circulating the petition booklets. Mr. Izon testified during his deposition that he spoke with an employee at Duane’s; Mr. Izon’s in person testimony was that he spoke with the owner (Duane) himself.
329. Mr. Izon also testified that he forwarded the information about Duane’s to “someone” in Anchorage.
330. Mr. Izon testified that he received communications from the Division about how petition booklets were left unattended at Tudor Bingo in October 2023.

⁶¹ Tr. 72-73.

⁶² Tr. 74.

⁶³ Exhibit 3001 shows multiple tables at the Palmer Train Depot, including at least one round table that is not connected to a row of multiple tables, but it is still very close.

⁶⁴ See Tr. 94. The Court finds that it is more likely true than not that the Master Spreadsheet has significant errors which give it no evidentiary value.

331. Mr. Izon testified that he was not in charge of Anchorage at that point, but that he forwarded the information along to Ms. Emswiler.
332. Mr. Izon testified that he intercepted two petition booklets that were improperly circulated at Big Valley Bingo (0140, 0357; exhibits 3008G, 3008K) and did not submit them to the Division.
333. Mr. Izon testified that although Sylvia's Quilt Depo was approximately 10 minutes from his house, he never went to that business to confirm that petition booklets were being properly circulated.
334. Mr. Izon testified that he kept a running newsletter that he sent in order to promote 22AKHE, advise of 22AKHE events, notify people of where petition booklets could be found to sign, discuss 22AKHE related issues, and provide updates on the campaign's progress. Mr. Izon also sent out social media posts containing the same types of information.
335. Mr. Izon testified that he added new information to the newsletter but neglected to delete information from it. As a result, the newsletter continued to contain information about Duane's, Tudor Bingo, Big Valley Bingo, GL Sherman Signs, and Sylvia's Quilt Depot. However, Mr. Izon testified that he stopped sending out separate social media posts regarding Duane's and the bingo locations.
336. Mr. Izon testified that he traveled extensively both outside and within Alaska during the signature gathering campaign.
337. Mr. Izon testified that he recalls getting one signature from a voter while at CPAC in Washington D.C., but otherwise did not recall collecting any signatures from any voter unless it was a travel day (i.e., he was flying that day).
338. Mr. Izon testified that he traveled to Southeast Alaska from April 22 to 27, 2023, and gathered signatures in multiple petition booklets.

339. Petition booklet 0181 (exhibit 2120) contains a non-Southeast Alaska signature from April 23, 2023. Mr. Izon testified that he has no memory about that particular signature.
340. Petition booklet 0181 (exhibit 2120) also contains a signature from May 9, 2023. Mr. Izon testified that he was in Florida on that day.⁶⁵
341. Mr. Izon testified that he did not always keep the Master Spreadsheet up to date.⁶⁶
342. Mr. Izon testified that he did not submit numerous booklets to the Division because of improper or incomplete circulator affidavits (exhibit 3008A-E).
343. Mr. Izon testified that he did not know what happened to the fifteen petition booklets that the Division returned to the Sponsors on January 12, 2024, but that they were not included in the stack of petitions he did not submit.
344. Mr. Izon later testified that it “was a bad plan” to have booklets left at businesses, and that he was “not surprised” the campaign got complaints about improper circulation of petition booklets that were left at businesses.
345. The Court finds Mr. Izon’s testimony, as written above, to be relevant and credible in large part, and not credible in some ways, most of which are of minimal relevance. Specifically, Mr. Izon’s testimony about informing others about issues at Duane’s and Tudor Bingo is not credible, but it is also of limited relevance.

19. Theodorus Ransum’s Testimony

346. Mr. Ransum’s testified through designated videotaped deposition testimony.
347. Mr. Ransum brought notes with him to his deposition which indicated which booklets he certified, which booklets he gave out to other individuals

⁶⁵ Tr. 186; *see also* Tr. 113.

⁶⁶ Again, the Court finds that it is more likely true than not that the Master Spreadsheet has significant errors which give it no evidentiary value.

as a volunteer team captain in Anchorage, and which petition booklets he notarized as a notary.

348. Mr. Ransum testified based on review of his own notes that he notarized eight (8) petition booklets.⁶⁷
349. Mr. Ransum was the team captain for three house districts in Anchorage (exhibit 1053).
350. Mr. Ransum testified that he assigned out eight (8) petition booklets to other individuals.⁶⁸ Those were petition booklets 0953-0960 (exhibits 2550-2556: booklet 060 is neither part of the Sponsors' exhibits of unsubmitted booklets nor part of the Defendants' exhibits of submitted booklets).
351. Mr. Ransum testified that many of the booklets were assigned out to individuals who kept them at their business. This included a car care center, a gas station owner, a hair styling salon, and a chiropractic office.⁶⁹ Mr. Ransum testified that he never went to any of those businesses to confirm that those booklets were being properly circulated.
352. Mr. Ransum made "an honest confession" and testified that he falsely signed a sworn circulator affidavit for a booklet that had been circulated by Maureen Sullivan.⁷⁰ The booklet number is 0958 (exhibit 2555), and Mr. Ransum did not have any explanation for why he falsely signed that petition booklet.⁷¹
353. Mr. Ransum testified that he gathered signatures at the Alaska State Fair for one day and at the Club "Booth."

⁶⁷ Mr. Ransum actually notarized fifteen (15) petition booklets (0043, 0045, 0094, 0481, 0484, 0780, 0906, 0956, 0957, 1308, 1309, 1320, 1327, 1328, 1330; exhibits 2032, 2034, 2069, 2308, 2311, 2458, 2519, 2553, 2554, 2588, 2589, 2597, 2602, 2603, 2605).

⁶⁸ Tr. 21.

⁶⁹ Tr. 23-24.

⁷⁰ Tr. 24.

⁷¹ Tr. 30, 45.

354. Mr. Ransum testified that he would leave his petition booklet unattended, sometimes for 20 minutes at a time, when it was out for signature collection at the Alaska State Fair, so that he could talk to friends and grab a bite to eat.⁷²
355. Mr. Ransum testified that the Club said it would not let him continue to collect signatures at its "Booth" if he was not going to stay with his petition booklet.⁷³
356. Mr. Ransum, after reviewing exhibit 1022A, acknowledged that he did not follow the rules with respect to petition booklet 0630 (exhibit 2379).
357. Mr. Ransum testified that he had photos taken with a friend on the day that he gathered signatures from the State Fair,⁷⁴ but the only photos that he had access to were from a different day than when the booklet was observed at the fair.⁷⁵
358. Mr. Ransum testified that he never gathered signatures at Tudor Bingo.⁷⁶
359. Mr. Ransum testified that he nevertheless signed petition booklet 0967 (exhibit 2560).⁷⁷
360. Mr. Ransum did not have any explanation for how he came to certify petition booklet 0967 (exhibit 2560), which had been left at Tudor Bingo for weeks according to the trial testimony and numerous authenticated photographs and videos from Ms. Kenny, Ms. Dunbar, Mr. Lee, and Mr. Susky. Mr. Ransum did not have any explanation for how he came to certify petition booklet 0967 (exhibit 2560)

⁷² Tr. 51-52.

⁷³ Tr. 28-29.

⁷⁴ Tr. 50-51.

⁷⁵ Tr. 60.

⁷⁶ Tr. 30-31.

⁷⁷ This was one of the booklets that had been left at Tudor Bingo for weeks according to the trial testimony and numerous authenticated photographs and videos from Ms. Kenny, Ms. Dunbar, Mr. Lee, and Mr. Susky

361. In total, Mr. Ransum conceded to have not properly certified two petition booklets (0958, 0967; exhibits 2555, 2560).⁷⁸
362. The Court finds Mr. Ransum's testimony, as stated above, to be relevant and credible. Mr. Ransum was forthcoming regarding his conduct and the circulator affidavits that he falsely signed.

20. Dr. Arthur Matias's Testimony

363. Dr. Mathias testified through designated videotaped deposition testimony.
364. Dr. Mathias testified that he is one of the Sponsors of the initiative.
365. Dr. Mathias testified that he played a "very limited" role in gathering signatures for 22AKHE.
366. Dr. Mathias testified that Mr. Izon was initially in charge of signature gathering for the entire state, but then Ms. Emswiler was brought in to gather signatures in Anchorage.
367. Dr. Mathias testified that Ms. Emswiler began leading the charge to gather signatures in Anchorage in around the September or October timeframe.⁷⁹
368. Dr. Mathias testified that he assigned out three to four petition booklets, and that he wrote down who he assigned them to on a piece of paper, and that he gave that information to Mr. Izon to input into the Master Spreadsheet.
369. Dr. Mathias testified that he and Mr. Izon decided to put Ms. Emswiler in charge of signature gathering in Anchorage.
370. Dr. Mathias testified that he had not heard about how the Division told Mr. Izon about unattended petition booklets at Duane's and Tudor Bingo.
371. Dr. Mathias testified that he did eventually learn from Mr. Izon that certain petition booklets would not be filed with the Division, and that they may

⁷⁸ Mr. Ransum signed certification statements for five petition booklets (0540, 0630, 0923, 0958, 0967; exhibits 2334, 2379, 2532, 2555, 2560).

⁷⁹ Tr. 11-12.

have included booklets from those locations, but that was not until January 2024.

372. Dr. Mathias testified that none of the primary individuals involved in decision making — including himself, Mr. Izon, and Ms. Emswiler — had ever run a signature gathering campaign before.

373. The Court finds that Dr. Mathias's testimony, as state above, to be is credible.

21. Brad Campbell's Testimony

374. Mr. Campbell testified through designated videotaped deposition testimony.

375. Mr. Campbell testified that he had received two 22AKHE petition booklets from his wife, Margaret Nelson.⁸⁰

376. Mr. Campbell testified that he did not receive any instructions about how to gather signatures,⁸¹ and that he had never gathered signatures before.⁸²

377. Mr. Campbell testified that there were already signatures in the two 22AKHE petition booklets that he received before he began gathering signatures in them.⁸³ Mr. Campbell testified that he does not know who gathered those signatures,⁸⁴ but that he signed the certifications for those booklets. Those petition booklets were booklets 0679⁸⁵ and 0835⁸⁶ (exhibits 2409, 2484).

⁸⁰ The Plaintiffs ask the Court to disqualify Ms. Nelson's certified booklet. They have presented no evidence of any actual wrongdoing by Ms. Nelson; the Court will not exclude that booklet.

⁸¹ Tr. 11, 18.

⁸² Tr. 14.

⁸³ Tr. 12.

⁸⁴ Tr. 22.

⁸⁵ Exhibits 1016I and 1017F-G show that petition booklet 0679 was left unattended at Duane's.

⁸⁶ Exhibits 1018A-D, 1020A-D, and 1024A-B show that petition booklet 0835 was left unattended at Duane's.

378. When asked whether he “witnessed” every signature in both of his petition booklets, Mr. Campbell invoked the Fifth Amendment.⁸⁷
379. When asked whether he ever let somebody else carry or have custody of his petition booklets, Mr. Campbell invoked the Fifth Amendment.⁸⁸
380. When asked whether he ever left either of his petition booklets at a static location and/or unattended, Mr. Campbell invoked the Fifth Amendment.⁸⁹
381. When shown photographs of petition booklet 0835 (exhibit 2484), Mr. Campbell could not identify the location.⁹⁰
382. Mr. Campbell testified that he never worked at Duane’s before he retired in the summer of 2023.⁹¹
383. The Court finds Mr. Campbell’s testimony, as stated above, to be relevant and credible.

22. Eric Hughes’s Testimony

384. Mr. Hughes testified through designated videotaped deposition testimony.
385. Mr. Hughes testified that he did not have prior experience gathering signatures before this,⁹² and that he does not recall receiving any instructions about how to gather signatures.⁹³
386. Mr. Hughes testified that he first got two 22AKHE petition booklets at an event held at Wellspring in February 2023. He further testified that he gave his contact information on a sheet of paper.
387. Mr. Hughes testified that he gathered signatures in both of these petition booklets, in part by gathering signatures outside of the PFD office in Anchorage at the end of March 2023.

⁸⁷ Tr. 16, 19.

⁸⁸ Tr. 17, 19-20.

⁸⁹ Tr. 17, 20.

⁹⁰ Tr. 20-21.

⁹¹ Tr. 8-9.

⁹² Tr. 26.

⁹³ Tr. 40.

388. Mr. Hughes testified that he handed both of those largely-filled 22AKHE petition booklets to Robert Coulter,⁹⁴ and that when he did, Mr. Hughes had not signed the certifications on the backs of either of those petition booklets.⁹⁵
389. Mr. Hughes testified that he left Alaska from August 11 to August 25, 2023.⁹⁶
390. Mr. Hughes testified that he went to the Alaska State Fair, but that it was after August 25, 2023, and that he did not collect signatures at the State Fair.⁹⁷
391. Mr. Hughes watched exhibit 1020E, which is a video that was taken of petition booklet 0950 (exhibit 2549) at the Alaska State Fair on August 19, 2023. Mr. Hughes could not identify any of the individuals in the video, and could not explain why they were gathering signatures in a booklet that he certified.⁹⁸
392. Despite the video and date discrepancy, Mr. Hughes testified that he gathered all of the other signatures in petition booklet 0950 (exhibit 2549) after he returned to Alaska.⁹⁹
393. The Court finds Mr. Hughes's testimony, as stated above, to be relevant and credible, in part. Mr. Hughes testimony that he gathered signatures in Alaska while out of state is not credible.

23. Trevor Jepsen's Testimony

394. Mr. Jepsen testified through designated videotaped deposition testimony.

⁹⁴ Tr. 19, 48-49.

⁹⁵ Tr. 25.

⁹⁶ Tr. 35.

⁹⁷ Tr. 37.

⁹⁸ Tr. 45-46, 56, 58-60.

⁹⁹ Tr. 46.

395. Mr. Jepsen testified that he did not have prior experience gathering signatures, and that he did not receive any training or instructions about how to gather signatures.¹⁰⁰
396. Mr. Jepsen testified that, in addition to gathering signatures at specific events, he also gathered signatures by going door-to-door.
397. Mr. Jepsen testified that, when he finished gathering signatures in a petition booklet, he would turn them in to Mikaela Emswiler at her house.¹⁰¹
398. Mr. Jepsen testified that he gave one of the booklets that he had received to another person to gather signatures, Kelly Cusack.¹⁰²
399. Mr. Jepsen testified that he ultimately signed the circulator affidavit for Ms. Cusack's petition booklet, even though he did not gather the majority of the signatures in that petition booklet.¹⁰³ Mr. Jepsen testified that he was able to identify that booklet because he remembers that there were only 15 signatures in that booklet, and that he had signed the last line of that booklet as a subscriber. Mr. Jepsen identified the booklet that he falsely certified as petition booklet 1319 (exhibit 2597A).¹⁰⁴
400. Mr. Jepsen testified that, to his knowledge, he was the sole circulator for all of the other booklets that he certified.¹⁰⁵
401. The Court finds Mr. Jepsen's testimony, as stated above, to be relevant and credible. Mr. Jepsen was forthcoming regarding the circulator affidavits that he falsely signed.

24. Natalie Martin's Testimony

402. Ms. Martin testified through designated videotaped deposition testimony.

¹⁰⁰ Tr. 21.

¹⁰¹ Tr. 18.

¹⁰² Tr. 19-20.

¹⁰³ Tr. 20.

¹⁰⁴ There appear to be two petition booklets labeled exhibit 2597. For clarity, Plaintiffs refer to petition booklet 1319 as exhibit 2597A, and petition booklet 1320 as exhibit 2597B.

¹⁰⁵ Tr. 20.

403. Ms. Martin testified that she did not have prior experience gathering signatures, and that she did not receive any training or instructions about how to gather signatures.¹⁰⁶
404. Ms. Martin testified that she remembered gathering signatures at the Alaska Outdoorsman show in March 2023.¹⁰⁷
405. Ms. Martin testified that once she filled out petition booklets, she would turn them in to Ms. McCabe.
406. Ms. Martin was shown exhibit 1018H.¹⁰⁸ Ms. Martin identified the three individuals in exhibit 1018H, and did not identify herself.¹⁰⁹ Ms. Martin testified that her book was there at the fair on September 1, 2023, and that, although she could not recall where she was at the exact moments when the video was taken, she was sure that she was there in the vicinity at that time.¹¹⁰ Ms. Martin testified that she was not aware of anyone signing her booklet No. 694 (Ex. 2419) when she was not present.¹¹¹
407. Despite being confronted with video evidence that she was not around one of her certified booklets at the Club “Booth” at the Alaska State Fair, Ms. Martin stood by her certification of booklet 0694 (exhibit 2419).
408. The Court, in general, finds Ms. Martin’s testimony to be relevant and credible.

25. Colleen Sherman’s Testimony

409. Ms. Sherman testified through designated videotaped deposition testimony.

¹⁰⁶ Tr. 20.

¹⁰⁷ Tr. 15-16.

¹⁰⁸ Tr. 36.

¹⁰⁹ Tr. 37.

¹¹⁰ Tr. 38-40.

¹¹¹ Tr. 40.

410. Ms. Sherman testified that she did not have prior experience gathering signatures, and that she did not receive any training or instructions about how to gather signatures.¹¹²
411. Ms. Sherman testified that, in general, she would gather signatures at her business, GF Sherman Signs in Soldotna. She testified that she kept the petition booklets on the front counter, which is accessible by anyone who comes into the store.
412. Ms. Sherman further testified that she would keep her petition booklets at the front of the store near her desk during the day, and that she would take them home every night.
413. Ms. Sherman testified that the whole shop was open so she could see the front door and customer counter from inside.¹¹³ She said there was a buzzer that would sound when people came inside. She would then come and talk to people about the initiative and ask if they wanted to sign.¹¹⁴
414. When asked about whether every signature was made in her actual presence or she “witnessed” every signature, Ms. Sherman testified that she would occasionally leave her petition booklets at the front of the store while she went to lunch “so the guys in the shop” might have actually collected signatures of people who “specifically just wanted to sign the book.”¹¹⁵
415. Ms. Sherman also testified that she let a gentlemen take a book home with him one day, and then he brought it back.¹¹⁶ Ms. Sherman was unable to recall the gentleman’s name, or which of her petition booklets he took.
416. Ms. Sherman repeatedly testified that she could not be sure whether she “witnessed” every signature in the booklet, because she did sometimes

¹¹² Tr. 18-19.

¹¹³ Tr. 44.

¹¹⁴ Tr. 44-45.

¹¹⁵ Tr. 22-24.

¹¹⁶ Tr. 26-27.

leave the petition booklets unattended at GF Sherman Signs, and she gave one of her booklets to another person to circulate.

417. After testifying to this effect, Ms. Sherman then testified that every signature in some of her booklets was made in her “actual presence,” which contradicted her prior testimony.¹¹⁷
418. Ms. Sherman testified that she could not definitively say whether anyone signed it when she was not present.¹¹⁸
419. Ms. Sherman acknowledged she was not visible in what was shown exhibits 1018E and 1018F.¹¹⁹
420. Ms. Sherman testified that she signed the circulator certificates for the following seven (7) booklets: (0378, 0506, 0605, 0606, 0607, 0608, 0609; exhibits 2243, 2324, 2361, 2362, 2363, 2364, 2365).
421. The Court, in general, finds Ms. Sherman’s testimony to be inconsistent on the key issue of whether all the signatures in the booklets that she certified were made in her actual presence, thus making her testimony relevant, but contradictory.

26. Sylvia Stewart’s Testimony

422. Ms. Stewart testified through designated videotaped deposition testimony.
423. Ms. Stewart testified that she did not have prior experience gathering signatures, and that she did not receive any training or instructions about how to gather signatures.¹²⁰
424. Ms. Stewart testified that she kept the petition booklets that she got at her shop, Sylvia’s Quilt Depot.¹²¹

¹¹⁷ Tr. 37-38.

¹¹⁸ Tr. 46.

¹¹⁹ Tr. 38-40.

¹²⁰ Tr. 13.

¹²¹ Tr. 11-12.

425. When asked whether she “witnessed” every signature in her petition booklets, Ms. Stewart testified that she did not. Ms. Stewart indicated that the booklets were up at the front counter, and that she believed somebody in her shop “witnessed” the signatures, but that it was not always her.¹²²
426. Ms. Stewart testified that although she certified petition booklets 0435 and 0502 (exhibits 2276, 2323), she did not stand by her sworn certifications, since she did not realize that all of the signatures needed to be made in her “actual presence.”
427. The Court finds Ms. Stewart’s testimony, as stated above, to be relevant and credible.

27. James Stocker’s Testimony

428. Mr. Stocker testified through designated videotaped deposition testimony.
429. Whenever Mr. Stocker was asked any questions about 22AKHE, or whether he circulated petition booklets, Mr. Stocker invoked his Fifth Amendment right against self-incrimination through his attorney.
430. Mr. Stocker’s attorney invoked the Fifth Amendment on Mr. Stocker’s behalf over 25 times.
431. The Court finds Mr. Stocker’s testimony, as stated above, to be relevant and credible.

28. Sharon Wessels’s Testimony

432. Ms. Wessels testified through designated videotaped deposition testimony.¹²³
433. Ms. Wessels testified that she did not have prior experience gathering signatures,¹²⁴ and that she did not receive any training or instructions about

¹²² Tr. 16, 18. Exhibits 1016D-F showed petition booklet 0502 (exhibit 2323) at Sylvia’s Quilt Depot.

¹²³ Ms. Wessels was unable to get her video camera to work and was, thus, not pictured during the deposition.

¹²⁴ Tr. 19

how to gather signatures other than what was contained within the petition booklets.¹²⁵

434. Ms. Wessels repeatedly testified that, in her opinion, she lawfully gathered signatures, and that she did not do anything wrong, or break the rules.¹²⁶
435. Ms. Wessels testified that she and her husband would jointly circulate the three petition booklets (0392, 0636, 0637; exhibits 2253, 2385, 2386) that she certified on opposite ends of a parking lot and/or street, and that he took one of the booklets to the doctor's office at one point.¹²⁷
436. Ms. Wessels could not identify which petition booklets were circulated by both her and her husband.
437. Ms. Wessels said that she acquired a third booklet that she may have collected signatures in by herself, without her husband's participation. But she should not remember which booklet that was, which was not definitive that she was the sole circulator of any specific booklet.¹²⁸
438. The Court finds Ms. Wessels's factual testimony related to how she circulated the booklets, as stated above, to be relevant and credible, but her opinion testimony was not credible.

29. Jesse Baise's Testimony

439. Mr. Baise testified through designated videotaped deposition testimony.
440. Mr. Baise testified that he did not have prior experience gathering signatures, and that he did not receive any training or instructions - or watch any videos - about how to gather signatures.¹²⁹
441. Mr. Baise testified that he did not remember whether or not he received instructions on how to gather signatures along with the two booklets.¹³⁰

¹²⁵ Tr. 20.

¹²⁶ Tr. 6, 11, 16, 19-20.

¹²⁷ Tr. 16-17, 22-23, 30, 32-34.

¹²⁸ Tr. 33-34.

¹²⁹ Tr. 17.

¹³⁰ Tr. 13-14.

442. Mr. Baise testified that generally he would not carry more than two petition booklets with him at any one time.¹³¹
443. Mr. Baise testified that he would gather between 20 and 30 signatures on his best day.¹³²
444. Mr. Baise testified that he certified petition booklets 0072, 0275, 0321 (exhibits 2057, 2173, 2200).
445. The Court, in general, finds Mr. Baise's testimony, as stated above, to be relevant and credible.

30. Richard Eide's Testimony

446. Mr. Eide's testified through designated videotaped deposition testimony.
447. Mr. Eide testified that he had limited prior experience gathering signatures.¹³³
448. Mr. Eide testified that he received his petition booklets from Barbara Tyndall, and that he would get his booklets notarized and turned back into her.¹³⁴
449. Mr. Eide testified that he would typically carry two booklets with him when he was gathering signatures.¹³⁵
450. Mr. Eide testified that, on his best day, he would gather between 30 and 40 signatures.¹³⁶
451. Mr. Eide testified that he mistakenly checked a box on one of his booklets indicating that he was paid to gather signatures, because he was never paid to gather signatures.¹³⁷

¹³¹ Tr. 14-15.

¹³² Tr. 18.

¹³³ Tr. 14.

¹³⁴ Tr. 11-13.

¹³⁵ Tr. 13-14, 27.

¹³⁶ Tr. 14.

¹³⁷ Tr. 25-27.

452. Mr. Eide testified that anybody who signed his booklets would be standing in front of him when they signed.¹³⁸

453. The Court finds Mr. Eide's testimony, as stated above, to be relevant and credible.

31. John Miller's Testimony

454. Mr. Miller testified through designated videotaped deposition testimony.

455. Mr. Miller testified that he did not have prior experience gathering signatures, and that he did not receive any training or instructions - or watch any videos - about how to gather signatures.¹³⁹

456. Mr. Miller testified that when he gathered signatures at events, he would take four petition booklets with him.¹⁴⁰ Mr. Miller explained that this was to help minimize wait times for signers.¹⁴¹

457. Mr. Miller testified that it was important to carefully watch individuals as they signed the petition booklets, since they would not always fill out the line correctly.¹⁴²

458. Mr. Miller testified that, on average, he would gather approximately 20 or 30 signatures in a day.¹⁴³

459. Mr. Miller testified that, for his best day, he would perhaps gather as many as 60 (or 80) signatures in a day while he was using four booklets.¹⁴⁴

460. The Court finds Mr. Miller's testimony, as stated above, to be relevant and credible.

32. Barbara Tyndall's Testimony

461. Ms. Tyndall testified through designated videotaped deposition testimony.

¹³⁸ Tr. 31.

¹³⁹ Tr. 20-22.

¹⁴⁰ Tr. 19.

¹⁴¹ Tr. 18-19.

¹⁴² Tr. 16-17.

¹⁴³ Tr. 26-27.

¹⁴⁴ Tr. 27-28.

462. Ms. Tyndall testified that she had limited prior experience gathering signatures.¹⁴⁵
463. Ms. Tyndall testified that she filled out a piece of paper when she acquired petition booklets from Mr. Izon indicating who would be assigned a particular booklet.
464. Ms. Tyndall testified that every petition booklet that she received included a one-page sheet of instructions on how to properly circulate the booklet.¹⁴⁶
465. Ms. Tyndall testified that she took many extra petition booklets from Mr. Izon, and that she would keep track of who she would assign new petition booklets too, and provide that information to Mr. Izon.¹⁴⁷
466. Ms. Tyndall said that she was not paid for gathering signatures, but that someone did make a \$100 donation or contribution to District 33.¹⁴⁸
467. Ms. Tyndall testified that she would collect petition booklets and mail them to Mr. Izon as they were notarized and completed on a rolling or ongoing basis.¹⁴⁹
468. Ms. Tyndall testified that she would only ever have two petition booklets out at any one time for signatures, and certainly no more than three.¹⁵⁰
469. The Court finds Ms. Tyndall's testimony, as stated above, to be relevant and credible.

III. Conclusions of Law

A. Applicable Law

1. Burden of Proof

470. The Plaintiffs proffer various arguments for why the Court should reject individual signatures, individual booklets, the booklets of individual

¹⁴⁵ Tr. 22-23.

¹⁴⁶ Tr. 16.

¹⁴⁷ Tr. 17-18.

¹⁴⁸ Tr. 22, 38-39, 41.

¹⁴⁹ Tr. 24-25.

¹⁵⁰ Tr. 29.

circulators, and/or the booklets of groups of circulators. The Plaintiffs also argue that the Court should reject the entire initiative petition.

471. The Plaintiffs have the burden to establish, by a preponderance of the evidence, that there was sufficient impropriety to warrant the extreme remedy of disqualifying the signatures of otherwise qualified Alaskan voters.
472. Put another way, the Plaintiffs must put forth evidence showing that the proposed remedy for proven circulator misconduct is designed to fit the severity of the misconduct. If circulator misconduct undercuts the reliability of a page in a booklet, then the remedy is to reject only that page. Similarly, if circulator misconduct undercuts the reliability of an individual signature, then only the individual signature must be rejected. If circulator misconduct pervades an entire petition booklet, then the booklet must be rejected. And taken to the extreme, circulator misconduct, if severe and pervasive enough, could undercut the reliability of an entire initiative petition. The Court *cannot* reject more signatures than what was impacted by a circulator's proven wrongdoing.

2. "The right to initiative is a key feature of Alaska's governance."¹⁵¹

The Alaska Supreme Court has repeatedly held that courts are to "liberally construe the requirements pertaining to the people's right to use the initiative process so that 'the people [are] permitted to vote and express their will on the proposed legislation.'"¹⁵² Courts are to resolve "doubts as to technical

¹⁵¹ *N. W. Cruiseship Ass'n of Alaska, Inc. v. State, Off. of Lieutenant Governor, Div. of Elections*, 145 P.3d 573, 586 (Alaska 2006) (quoting *Hinterberger v. State*, No. 3AN-03-04092CI (Alaska Super., October 21, 2003)).

¹⁵² *Id.* at 577 (quoting *Boucher v. Engstrom*, 528 P.2d 456, 462 (Alaska 1974)).

deficiencies or failure to comply with the exact procedural requirements” of the initiative statutes, “in favor of the accomplishment of that purpose.”¹⁵³

3. This Court may invalidate individual signatures, entire booklets, booklets by specific circulators, or an entire petition depending on the severity of circulator misconduct.

473. The Division “has a compelling state interest in ‘ensuring the integrity of the election process and preventing fraud.’”¹⁵⁴ Part of the election process includes the circulation of petition booklets for signature collection.

474. The Alaska Supreme Court concluded in *North West Cruiseship Association of Alaska v. State* that signatures can be invalidated for a circulator’s errors.¹⁵⁵ In that case, circulators failed to include the required “paid by” disclosure on certain pages of some petition booklets.¹⁵⁶ The Court upheld the Division’s decision to disqualify all signatures on every page where this omission occurred.¹⁵⁷

475. In that same case, the Supreme Court indicated that signatures that were added to petition booklets while the booklets were left unattended may be excluded. There was an allegation that a circulator left a petition booklet unattended at the Eaglecrest Ski Area ski lodge in Juneau.¹⁵⁸ The Division counted the signatures that may have been added to the booklet while it was unattended.¹⁵⁹ The superior court determined that it could not exclude those signatures without making credibility determinations after hearing the

¹⁵³ *N. W. Cruiseship*, 145 P.3d at 577.

¹⁵⁴ *Res. Dev. Council for Alaska, Inc. v. Vote Yes for Alaska's Fair Share*, 494 P.3d 541, 553 (Alaska 2021) (quoting *Purcell v. Gonzalez*, 549 U.S 1, 4 (2006)).

¹⁵⁵ 145 P.3d 573 (Alaska 2006).

¹⁵⁶ *Id.* at 578 (citing the former requirement of AS 15.45.130(8)).

¹⁵⁷ *Id.*

¹⁵⁸ *Id.* at 588.

¹⁵⁹ *Id.*

witnesses' testimony about the incident.¹⁶⁰ This Court reads *North West Cruiseship* to mandate that the proper remedy for signatures added to booklets outside of the circulator's presence is to exclude at least those individual signatures.

476. As explained in *Zaiser v. Jaeger*, a non-binding out-of-state case, circulator's certification affidavits are a critical, and mandatory, component of protecting a state's interest in maintaining the security of the initiative process.¹⁶¹

[I]f the circulator knew . . . that [a] signature was not written on the petition in his presence, . . . yet, notwithstanding his knowledge, he willfully, corruptly, and intentionally makes a false and perjured affidavit to the contrary, then such affidavit is worthless, and the petition or part of a petition to which it is attached does not fill the requirement of the [North Dakota] Constitution, and the genuine signatures thereon cannot be counted for the reason that part of the petition lacks the affidavit required by the Constitution.¹⁶²

477. In *Zaiser*, the North Dakota Supreme Court disqualified entire petition booklets where the sponsors of an initiative admitted that circulators forged signatures in booklets, and then falsely certified that those signatures were made in the circulators' presence and was the genuine signature of the individual who it purported to be.¹⁶³ The court ultimately excluded entire petition booklets based upon that fraudulent conduct.¹⁶⁴
478. Other courts have also held that if particular circulators, or a specific group of circulators, have been determined to have engaged in extreme fraudulent

¹⁶⁰ *Id.* Because there were only 10 signatures at issue, it was not enough to change the Division's decision to put the initiative on the ballot, making trial unnecessary. *Id.*

¹⁶¹ 822 N.W.2d 472, 481-82 (N.D. 2012).

¹⁶² *Id.* (alterations added) (citing *State ex. Rel. Gongwer v. Graves*, 107 N.E. 1018, 1022 (1913)).

¹⁶³ *Id.* at 475.

¹⁶⁴ *Id.* at 484.

petition circulation activity, then all signatures from those circulators, or groups of circulators, may be discarded.¹⁶⁵

479. In *Williams v. D. C. Board of Elections & Ethics*, an elections authority “categorically exclud[ed]” signatures from nominating petitions circulated by three individuals.¹⁶⁶ The three circulators forged numerous signatures of well-known public figures including “Tony Blair, Jack Kemp, Donald Rumsfeld, Kofi Annan, [and] Martha Stewart.”¹⁶⁷ Even though the elections authority had not counted the specific pages with the fraudulent signatures, it took the extra precaution of disallowing all of the signatures attributable to the three circulators because their “nominating petition sheets predominate[d] [the] nominating petition submission.”¹⁶⁸ The D.C. court affirmed the election authority’s decision, finding “substantial evidence in the record supporting its conclusion that the integrity of the nominating process had been undermined by forgeries and possible fraud.”¹⁶⁹
480. Similarly, in *Citizens Committee for the D. C. Video Lottery Terminal Initiative v. D.C. Board of Elections & Ethics*, a court determined that members of a group managing an initiative petition, called Stars and Stripes, had engaged in a “pervasive pattern of fraud, forgeries, and other improprieties that permeated the petition circulation process.”¹⁷⁰ This made it necessary to exclude all the booklets generated by Stars and Stripes, including all the signatures contained therein, “to preserve the integrity of

¹⁶⁵ See *Williams v. D.C. Board of Elections & Ethics*, 804 A.2d 316, 321 (D.C. 2002), as corrected (August 14, 2002).

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* at 318 n.2.

¹⁶⁸ *Id.* at 320.

¹⁶⁹ *Id.* at 321.

¹⁷⁰ 860 A.2d 813, 813 (D.C. 2004).

the circulation process.”¹⁷¹ The circulator misconduct included: 1) members of Stars and Stripes falsely signing circulator affidavits; 2) individual circulators testifying that Stars and Stripes supervisors had attributed booklets to them that they had not circulated; and 3) Stars and Stripes supervisors forging circulators’ signatures on affidavits.¹⁷²

481. Other courts have further expanded the available remedies. In *Montanans for Justice v. State*, an organization in Montana hired circulators from out of state to collect signatures.¹⁷³ The out-of-state circulators were found to have: 1) falsely attested to personally gathering signatures;¹⁷⁴ 2) provided false or fictitious addresses in their certification affidavits;¹⁷⁵ and 3) used bait-and-switch tactics to entice voters into signing additional separate petitions when they thought they were signing only a single petition.¹⁷⁶ The Supreme Court of Montana affirmed the lower court’s determination that these issues had caused the out-of-state circulator certification affidavits to become “legally defective” because of the “pervasive and general pattern and practice of fraud and conscious circumvention of procedural safeguards.”¹⁷⁷ The appellate court reasoned that, if the “initiative process [were] to remain viable and retain its integrity,” then it needed to reject all of the signatures gathered by the out-of-state circulators, and invalidate the placement of the initiative on the ballot.¹⁷⁸

482. In summary, the wide-ranging misconduct in these, non-binding, out-of-state cases included fraud, forging voter signatures, forging circulator

¹⁷¹ *Id.* at 818-19.

¹⁷² *Id.* at 815-16.

¹⁷³ 146 P.3d 759, 764 (Mont. 2006).

¹⁷⁴ *Id.* at 770.

¹⁷⁵ *Id.* at 773.

¹⁷⁶ *Id.* at 775.

¹⁷⁷ *Id.* at 776.

¹⁷⁸ *Id.* at 778.

signatures, using false addresses, and using bait-and-switch signature-gathering tactics.¹⁷⁹

483. Conversely, the only cases, to date, in which the Alaska Supreme Court has adopted the disqualification of signatures are situations in which the voters were potentially misled.¹⁸⁰ In *North West Cruiseship*, The Supreme Court determined that the Division's decision to disqualify each page without the "paid by" disclosure, including all the signatures on those pages, had properly:

construed its own regulations in a manner that struck a careful balance between the people's right to enact legislation by initiative and the regulations requiring that potential petition subscribers be made aware that the circulators may have a motivation to induce them to sign the petition other than a personal belief in the value of the initiative.¹⁸¹

4. Self-certification is always permitted.

484. The Plaintiffs claim that entire petition booklets should be rejected because certain circulators signed self-certifications without making "an effort" to find a notary to notarize their certification affidavit. A similar argument was rejected by the Alaska Supreme Court in *North West Cruiseship*.¹⁸² The supreme court held that petition booklets should not be rejected due to

¹⁷⁹ Moreover, it must be noted that some of these cases were in a different procedural posture than in the instant case. In *Zaiser, Williams, and Citizens Committee* the elections authority had denied placement of the petition on the ballot, meaning that the sponsors had the burden of proof. Only in *Montanans for Justice*, like in the instant case, did the elections authority certify the petition to appear on the ballot. However, the Court does not believe that this procedural posture substantively affects the legal standards outlined in all four cases, which rejected signatures based on the severity of the circulator's fraudulent behavior.

¹⁸⁰ See *North West Cruiseship Ass'n of Alaska v. State*, 145 P.3d 573, 577 (Alaska 2006) (providing that signatures from voters who signed pages of petition booklets that did not contain "paid by" information were properly excluded); cf. *Faipeas v. Municipality of Anchorage*, 860 P.2d 1214, 1219-1221 (Alaska 1993) (finding the referendum itself and its summary to be misleading, the court threw the entire referendum, with all signatures in support, out).

¹⁸¹ *North West Cruiseship Association of Alaska, Inc. v. State*, 145 P.3d 573, 578 (Alaska 2006).

¹⁸² *Id.*

the fact that circulators signed self-certifications in cities where notaries were easily available.¹⁸³ The Court in *North West Cruiseship* explained:

North West's second contention concerning the self-certifications – that it cannot possibly be true that notaries were “unavailable” to the circulators residing in Anchorage and that therefore the self-certified petitions should be disqualified – essentially requires that we read the word “unavailable” in AS 09.63.020(a) to mean that self-certification is not allowed if a notary or other official authorized to take an oath is present in a circulator's hometown or larger community. But the petition form contained no definition of “unavailable” or instructions regarding the determination of a notary's unavailability under the statute. Furthermore, the language of AS 09.63.020 does not establish a presumption that if a community includes a notary, that notary is “available.” As the statute includes no language suggesting that the term “unavailable” be interpreted in a restrictive manner, we decline to do so here. And, again, the fact that the circulators signed the self-certifications under penalty of perjury provides a safeguard. We therefore conclude that the self-certified petition booklets were properly accepted by the Division.¹⁸⁴

485. The purpose of both notarization and self-certification is to require circulators to swear to the truthfulness of their certification affidavits, and this purpose is readily achieved regardless of which method is used for the swearing. The Supreme Court's decision in *North West Cruiseship* controls.

¹⁸³ *Id.*

¹⁸⁴ *Id.* at 578.

5. Signatures must be made in a circulator's "actual presence," and petition booklets cannot be shared among circulators.

486. The Alaska Legislature adopted the Alaska Elections Code to put in place specific requirements that circulators must follow when gathering signatures. This Court is mandated to give effect to those requirements.
487. Alaska Statute 15.45.130(2) requires circulators to affirm that they were "the only circulator of that petition." This is the "single circulator" or "sole circulator" rule. Likewise, AS 15.45.130(3) requires circulators to affirm "that the signatures were made in the circulator's actual presence." This is the "actual presence" rule.¹⁸⁵ When read in harmony, violation of the "single circulator" rule would likely often also implicate the "actual presence" rule because, if a circulator shares their petition booklet with another circulator, then the latter circulator is likely to have collected signatures outside of the former certifying circulator's actual presence.
488. The "single circulator" and "actual presence" rules appear on every petition booklet in the instruction to circulators section and on the back page. Every circulator is required to attest that they followed the rules by completing a certification affidavit.
489. The purpose of the "actual presence" requirement is to promote initiative security,¹⁸⁶ including that the voters are not potentially misled¹⁸⁷ (if the certifying circulator is not present to answer questions, or point the voter to the copy of the initiative in the petition booklet, then a voter may misunderstand the contents of the initiative). Violating the "actual presence" requirement of AS 15.45.130(3) is a "failure to comply with the

¹⁸⁵ Notably, both of these rules have existed since the inception of the Alaska Elections Code soon after statehood. SLA 1960, ch. 83, § 9.13.

¹⁸⁶ See *Zaiser v. Jaeger*, 822 N.W.2d 472, 481-82 (N.D. 2012).

¹⁸⁷ See *N. W. Cruiseship Association*, 145 P.3d at 577

exact procedural requirements,” which the Alaska Supreme Court holds is to be “liberally construed.”¹⁸⁸ Thus, application of the “actual presence” requirement should be liberally construed in favor of the initiative being placed on the ballot.

490. Applying this liberal construction, the Court finds that the statutory language specifically does *not* include a requirement that the circulator “witness” all signatures, or for the circulator to be “directly involved” with a voter’s signing of a petition, both of which were proffered as interpretations of “actual presence” by Mr. Costa.
491. The Court interprets the “actual presence” rule to mean that a circulator be present in the room with their petition booklet while collecting signatures, or in close physical proximity, and situated in such a way that they would be reasonably aware if a voter were to approach their petition booklet to sign it.¹⁸⁹
492. Moreover, the Court finds that the “actual presence” requirement *does not* create a *de facto* limit on the number of petition booklets a circulator can display on tables while she or he is present and available to ask signers if they are registered voters, take questions from signers, or notice if signers were taking an inordinate amount of time to fill out a book (which would be indicative of a signer adding names other than their own).
493. If the Legislature intended more than that a circulator be in the room, or relatively nearby, while the book is being signed, then it likely would have used different language, or included a definition of “actual presence.”

¹⁸⁸ *Id.*

¹⁸⁹ See ACTUAL, Black’s Law Dictionary (12th ed. 2024) (defining “actual” as “[e]xisting in fact; real”); PRESENCE, Black’s Law Dictionary (12th ed. 2024) (defining “presence” as “[t]he quality, state, or condition of being in a particular time and place, particularly with reference to some act that was done then and there” and “[c]lose physical proximity coupled with awareness”).

However, the Legislature did no such thing. Similarly, the Division could have defined “actual presence” via regulation, but it has not done so.

494. Moreover, even if the term “actual presence” is read to mean *more* than a circulator being present in the room, or in close proximity, then – applying the holding from *North West Cruiseship* – the Court finds that having “too many booklets out at once” or being “a little too far away” is precisely the type of “exact procedural requirement” that warrants application of the constitutional principle of interpreting legislative procedures in favor of placing initiatives on the ballot.¹⁹⁰ These scenarios do not undermine the validity of the signature from the subscriber, specifically where, as here, the Division did a line-by-line analysis of each petition booklet to determine if the signatures were from qualified voters.
495. However, as discussed above, if it is proven, by a preponderance of the evidence, that signatures were added to a petition booklet when the circulator is not in the room, or relatively nearby, (including while the booklet was with a different circulator), then they should be invalidated.¹⁹¹
496. Based on the guidance from the out-of-state cases cited by the parties, the Court also finds that, if the circulator knowingly signed a certification which was not true, or disavowed the prior certification, then all signatures within that impacted petition booklet should be invalidated. Put another way, if there is credible evidence of the circulator’s knowledge of impropriety (or that a reasonable person would have known it was improper) when they signed the certification affidavit (meaning that they knew they were signing an affidavit in violation of the “actual presence” or “sole circulator” rules), or they later decline to “reaffirm” their

¹⁹⁰ See *N. W. Cruiseship*, 145 P.3d at 582.

¹⁹¹ *Id.* at 588.

certification,¹⁹² then excluding that entire petition booklets is the proper remedy.

497. The Court finds this approach is the best way to balance the state's interest in "ensuring the integrity of the election process and preventing fraud"¹⁹³ with "the right to initiative [being] a key feature of Alaska's government."¹⁹⁴

B. The Court concludes that 22AKHE is not disqualified based on allegations of pervasive problems with the petition campaign as a whole.

498. Again, other courts have invalidated entire petitions only when presented with evidence of wide-ranging significant fraud which included forging voter signatures, forging circulator signatures, and using bait-and-switch signature-gathering tactics.¹⁹⁵ Even if these holding were procedurally aligned and binding on this Court, the proffered evidence at trial of limited circulator misconduct does not demonstrate widespread and pervasive fraud similar to those cases. Specifically, the Plaintiffs presented no proof that circulators forged voter signatures or intentionally misled voters. Mr. Costa confirmed that he could not identify even one instance of a voter who had not personally filled out his or her information and signed his or her own name.
499. At most, the evidence presented demonstrated *limited* instances of circulators signing affidavits for booklets they did not circulate, sharing booklets amongst multiple circulators, and leaving petition booklets unmonitored. As discussed further below, the remedy for these issues is to

¹⁹² See *Zaiser v. Jaeger*, 822 N.W.2d 472, 475 (N.D. 2012) (considering if circulators were willing to "re-affirm" the authenticity of the signatures they gathered).

¹⁹³ *Res. Dev. Council for Alaska, Inc. v. Vote Yes for Alaska's Fair Share*, 494 P.3d 541, 553 (Alaska 2021).

¹⁹⁴ *N. W. Cruiseship*, 145 P.3d at 586.

disqualify specific signatures or booklets (to the extent the signatures or booklets were counted by the Division).

500. The Court finds that it is more likely than not that Mr. Izon did not provide “comprehensive training” to circulators of 22AKHE petition booklets, which led to some non-compliant signature gathering. But there is no constitutional or statutory requirement that initiatives must maintain professional levels of organization and training, particularly when considering that each petition booklet includes instructions to circulators. The remedy for failing to adequately train circulators is to run the risk of disqualification of signatures or petition booklets which are non-compliant, and not to disqualify the initiative as a whole.
501. The Court finds it is more likely than not that Mr. Izon did not inform Ms. Emswiler and Dr. Mathias about the issues at Duane’s and Tudor Bingo, or take immediate action to stop those booklets from circulating or being “advertised.” But, again, the proper remedy is to exclude just those booklets not the petition as a whole.
502. Plaintiffs’ position that these errors should invalidate the petition as a whole is in direct contradiction to every Alaska Supreme Court case addressing voter initiatives.
503. Accordingly, there is no evidence in this case that there was a pervasive pattern of intentional, knowing, and orchestrated misconduct to warrant invalidating the 22AKHE initiative petition *in toto*.

C. The Court concludes that some petition booklets must be disqualified.

504. That said, the Court finds that there were some instances of non-compliant signature gathering by circulators for 22AKHE.

¹⁹⁵ See *id.* at 576-78.

505. Plaintiffs set forth a number of bases for why the Court should disqualify entire booklets. Each will be addressed in turn below.

1. High Total Days

506. As previously found by the Court, the burden is on the Plaintiffs to show that there was actual wrongdoing in connection with large single-day signature collections.

507. As stated above, the Court construes the “actual presence” requirement in favor of the initiative being placed on the ballot.

508. The Court finds that Mr. Costa’s opinion that the six circulators identified in his large single day table (page 19 of exhibit 1055) warranted additional scrutiny to be reasonable. However, the Court heard testimony from four of those circulators (Mr. Izon, Ms. McCabe, Ms. McCollum, and Mr. Baise) and, to the extent each was asked about their high signature days, each provided credible explanations for the signature totals. There is nothing inherently unlawful in the practices the circulators described (i.e., having up to four booklets on a table in front of them at a time for large events).

509. Plaintiffs failed to meet their burden of proving which, if any, of the specific signatures from those high total days, were improperly gathered.

510. The Court finds that the Plaintiffs’ proposed relief of the wholesale disqualification of all petition booklets from each of these circulators, particularly those who did not testify in order to provide an explanation on their totals, is contrary to Alaska law because it would reject substantially more signatures than those potentially impacted by a circulator’s alleged wrongdoing.¹⁹⁶

511. Specifically, while the Court agrees that 580 signatures collected in one day is a substantial sum, Mr. Izon’s testimony (while at times inconsistent, but

largely corroborated by Mr. Whisamore and exhibit 3001) that there were crowds of people at the train depot, and that he had 4-5 petition booklets going at once (all within his field of sight), undercuts the Plaintiffs' presumption of wrongdoing.

512. Similarly, Mr. Baise gathered over 150 signatures from a single day, per the data, but he testified that he would generally only gather between 20 and 30 signatures. However, no party specifically asked Mr. Baise about the date that had over 150 signatures to try to refresh his recollection as to whether he in fact collected those signatures. Thus, the Plaintiffs have not met their burden to prove it is more likely than not that Mr. Baise falsely certified his petition booklets.
513. No signatures or booklets are disqualified on the basis of large total signature days alone.

2. 3+ Simultaneous Start Booklets

514. As previously found by the Court, the burden is on the Plaintiffs to show that there was actual wrongdoing in connection with circulators having multiple booklets started at a time.
515. The Court does not find Mr. Costa's underlying assumptions and proposed remedies regarding the sixteen circulators identified in his 3+ simultaneous start table (page 10 of exhibit 1055) to be reasonable. The Court also rejects his suggestion that the burden shifts and circulators must have a "good reason" for circulating multiple booklets simultaneously, or the booklets should be disqualified.
516. The Court heard from a number of witnesses (e.g., Mr. Coulter, Mr. Izon, and Ms. McCollum) about how they came to start a third petition booklet before finishing gathering signatures in two other petition booklets. There

¹⁹⁶ *N. W. Cruiseship*, 145 P.3d at 588.

is nothing inherently unlawful in this practice, and the wholesale disqualification of all petition booklets from each of these circulators is contrary to Alaska law.¹⁹⁷

517. Absent actual proof that booklets were shared between circulators, or that booklets actually had signatures added while left unattended (those booklets are addressed below), there is no legal basis for excluding the booklets or the signatures contained therein.
518. Specifically, the Court finds that it is more likely than not that Mr. Izon was lawfully circulating his petition booklets simultaneously. Although, the Court does not find Mr. Izon's explanation regarding his plan to segregate signatures in separate booklets by house district to be credible, the Court does find the remainder of Mr. Izon's testimony on the number of booklets he used to be credible.
519. No signatures or booklets are disqualified on the basis that any circulator had multiple booklets circulating at one time.

3. Shared Booklets

520. The Court finds that there was sufficient testimony for the Court to conclude that some 22AKHE petition booklets were improperly signed by circulators who did not circulate their booklets in whole or in part (i.e., sharing booklets amongst multiple circulators). As noted above, such conduct almost invariably also violated the "actual presence" statutory requirements.
521. Again, the Court finds that the appropriate remedy for this conduct, if it is proven by a preponderance of the evidence, is to (a) invalidate all signatures added to a petition booklet when the circulator was not in the room, or relatively nearby, (including while the booklet was with a

¹⁹⁷ *Id.*

different circulator);¹⁹⁸ or (b) invalidate all signatures within a petition booklet if the circulator knowingly signed a certification which was not true, or disavowed the prior certification. This is the “test” the Court will apply to all booklets flagged by Plaintiffs as being “shared.”

522. **Booklet 0181:** Plaintiffs point to two signatures in petition booklet 0181 (exhibit 2120) which were dated when Mr. Izon was traveling outside Alaska and in Southeast Alaska. However, this does not meet their burden of proving it is more likely than not that Mr. Izon falsely signed the sworn certification affidavit for that booklet. Nearly all of the circulator witnesses testified that it was common for signers to incorrectly date their signature lines. Given the small number of instances that Plaintiffs can point to of travel conflicts (two of 44 for this specific booklet, or two of 1926 if you look at the total number of signatures Mr. Izon certified collecting), a misdated signature is as likely, if not a more likely, reason for the discrepancy.
523. **Booklet 0476:** The Court finds that petition booklet 0476 (exhibit 2305) is disqualified because Mr. Coulter admitted to falsely signing the circulator affidavit for that booklet after Mr. Hughes collected the signatures contained therein.¹⁹⁹
524. **Booklets 0392, 0636, 0637:** The Court finds that the signatures in petition booklets 0392, 0636, 0637 (exhibits 2253, 2385, 2386) are disqualified. Ms. Wessels, while claiming she did everything “right,” essentially disavowed her certifications by admitting that she and her husband shared at least two of the booklets she certified. She was also unable to state with

¹⁹⁸ *N.W. Cruiseship Assn. of Alaska, Inc. v. State, Off. of Lieutenant Governor, Div. of Elections*, 145 P.3d 573, 588 (Alaska 2006).

¹⁹⁹ The Court found Mr. Hughes’s testimony that he gave Mr. Coulter two uncertified petition booklets to be credible. But with no additional information relating to which is the second booklet (or if it was even submitted to the Division), the Plaintiffs have not met their burden in proving which other book should be disqualified.

any degree of probability that she was the sole circulator of any of her booklets.

525. **Booklet 0694:** The Court finds that it is more likely than not that petition booklet 0694 (exhibit 2419) was properly qualified. Exhibit 1018H does not show Ms. Martin present in the video of this booklet while it was at the Alaska State Fair. However, the video shows only a fleeting moment, and Ms. McCollum provided a credible explanation for Ms. Martin not appearing in the video.²⁰⁰ Moreover, Ms. Martin reaffirmed her certification, and there was no evidence presented that any signatures were added outside Ms. Martin's presence.
526. **Booklet 0696:** The Court finds that Plaintiffs have not met their burden in establishing that it is more likely than not that petition booklet 0696 (exhibit 2421) was improperly circulated. The Court finds that Ms. Potts was sitting behind this booklet at the Alaska State Fair in September 2023. However, Ms. McCabe credibly testified that when she worked at collecting signatures at the Fair, she would step inside the trailer from time to time to take a coffee break and perhaps occasionally would leave her booklet on the table while she did so. She testified that she never intended to abandon her booklets when she stepping into the trailer or away from the table, and never intended Ms. Potts or anyone else to collect signatures in her booklet. Thus, Ms. McCabe reaffirmed her certification, and there was no evidence presented that any signatures were added outside Ms. McCabe's presence.
527. **Booklet 0690:** The Court finds that Plaintiffs have not met their burden in establishing that it is more likely than not that petition booklet 0690 (exhibit 2416) was not properly circulated. The Court finds that Mr. Tew was holding that booklet at the Alaska State Fair. However, the Court also

finds Ms. McCollum's surprise at someone else having her petition booklet in the video to have been genuine, and she reaffirmed her certification. Moreover, there was no evidence presented that any signatures were added outside her presence. Therefore, petition booklet 0690 was properly counted by the Division.

528. **Booklet 0950:** The Court finds that it is more likely than not that petition booklet 0950 (exhibit 2549) was not properly circulated because there is sufficient evidence that Linda Berg Smith gathered a number of signatures in that booklet, but it was certified by Mr. Hughes. While Mr. Hughes reaffirmed his certification, he also admitted that a number of signatures were included in the booklet and dated when he was out of the State. Accordingly, the Court finds the Mr. Hughes *should have* known that the certification affidavit was untrue when he signed it. All signatures contained within petition booklet 0950 must be disqualified.
529. **Booklet 0958:** Mr. Ransum made "an honest confession" that he falsely signed a sworn circulator affidavit for booklet 0958 (exhibit 2555) that had been circulated by Maureen Sullivan.²⁰¹ This booklet must be disqualified.
530. **Booklet 1319:** The Court finds that petition booklet 1319 (exhibit 2597A) is disqualified because Mr. Jepsen admitted to falsely signing the circulator affidavit for that booklet, when Ms. Cusack collected the signatures contained therein.

4. Unattended Booklets

531. The Court finds that there was sufficient testimony for the Court to conclude that some 22AKHE petition booklets were improperly left

²⁰⁰ Tr. 16-17.

²⁰¹ Tr. 24.

unattended at businesses and other locations, violating the “actual presence” statutory requirement.

532. Again, the Court finds that the appropriate remedy for this conduct, if it is proven by a preponderance of the evidence, is to (a) invalidate all signatures added to a petition booklet when the circulator is not in the room, or relatively nearby,²⁰² or (b) invalidate all signatures within a petition booklet if the circulator knowingly signed a certification which was not true, or disavowed the prior certification. This is the “test” the Court will apply to all booklets flagged by Plaintiffs as being “unattended.”
533. **Booklets 0435, 0502:** The Court finds that it is more likely than not that Ms. Stewart’s two petition booklets (0435, 0502; exhibits 2276, 2323) were not properly circulated. Ms. Stewart testified that she allowed others at her shop (Sylvia’s Quilt Shop) to gather signatures in those booklets. Ms. Stewart also failed to reaffirm her certification of those booklets, and thus those booklets must be disqualified.
534. **Booklet 0630:** The Court finds that Plaintiffs have not met their burden in establishing that it is more likely than not that petition booklet 0630 (exhibit 2379) was not properly circulated. While there is a fleeting video of the booklet left unattended and unmonitored at the Alaska State Fair, Mr. Ransom testified credibly that he was in the area of the booklet at all times, even if he was not visible in the video.
535. **Booklets 0679, 0835:** The Court finds that it is more likely than not that petition booklets 0835 and 0679 (exhibits 2484 and 2409), were not properly circulated because they were left unattended at Duane’s, and Mr. Campbell failed to reaffirm his certification. All of the signatures contained within those petition booklets must be disqualified.

²⁰² *N.W. Cruiseship Assn. of Alaska, Inc. v. State, Off. of Lieutenant Governor, Div. of Elections*, 145 P.3d 573, 588 (Alaska 2006).

536. **Booklet 0967:** The Court finds that it is more likely than not that petition booklet 0967 (exhibit 2560) was not properly circulated because it was left unmonitored and unattended at Tudor Bingo for at least a week, if not longer, and Mr. Ransum disavowed his certification. All of the signatures contained within that petition booklet must be disqualified.
537. **Booklets 0378, 0506, 0605, 0606, 0607, 0608, 0609:** The Court finds that it is more likely than not that Ms. Sherman did not properly circulate her petition booklets (0378, 0506, 0605, 0606, 0607, 0608, 0609; exhibits 2243, 2324, 2361, 2362, 2363, 2364, 2365) because not every signature was made in her actual presence. The Sponsors advertised GF Sherman Signs as a signing location during normal business hours, including “9-5 M-F.”²⁰³ The Court finds that it is more likely than not that multiple signatures were added to Ms. Sherman’s petition booklets while she was not actually present. This is because Ms. Sherman testified that she would sometimes leave her petition booklets unattended, that she gave a petition booklet to another individual to gather at least one signature, and that she was unable to identify which petition booklets were not properly circulated. Additionally, because Ms. Sherman had provided her business as a location to gather signatures, but she admitted to leaving her booklets unattended (for people who “come in and specifically just wanted to sign the booklet”) even for short period, it is more likely than not that multiple signatures were added outside of her actual presence. Accordingly, the Court finds that Ms. Sherman *should have* known that the certification affidavit was untrue when she signed it. Therefore, the signatures in Ms. Sherman’s booklets must be disqualified.
538. **Booklets 0010, 0011, 0021, 0031, 0055, 0472, 0476, 0794:** The Court find that Plaintiffs have not met their burden to establish that all of Mr.

Coulter's petition booklets (0010, 0011, 0021, 0031, 0055, 0472, 0476, 0794; exhibits 2007, 2008, 2016, 2025, 2041, 2301, 2305, 2466) should be disqualified. Mr. Coulter admitted that he would sometimes leave them unattended, and Mr. Coulter could not identify which of his petition booklets he left unattended. However, the Court *does not* find it is more likely than not that signatures were added to his booklets outside of his "actual presence." Specifically, he testified that when he left his booklets, he never intended to leave them in a way so that someone could walk up and sign them. This is unlike Ms. Sherman, who left her booklets in a static location, but advertised that anyone could sign them "9-5 M-F."

539. **The "Rogers":** The Court further finds that Mr. Coulter gave one of his petition booklets to a friend (last name Rogers) so that their family could sign. While the Court cannot locate a family of four Rogers, the Court does find that it is more likely than not that the two signatures with the last name "Rogers" in succession in booklet 0472 (exhibit 2301), which was certified by Mr. Coulter, were likely added outside his actual presence.²⁰⁴ The two "Rogers" in succession in booklet 0472 must be disqualified.

5. Circulators Who Otherwise Failed to Reaffirm Booklets.

540. "[T]he Fifth Amendment 'not only protects the individual against being involuntarily called as a witness against himself in a criminal prosecution but also privileges him not to answer official questions put to him in any other proceeding, civil or criminal, formal or informal, where the answers might incriminate him in future criminal proceedings.'"²⁰⁵

²⁰³ Ex. 1041V.

²⁰⁴ The Court cannot confirm that the "Rogers" children also signed, so cannot disqualify their signatures.

²⁰⁵ *Baxter v. Palmigiano*, 425 U.S. 308, 316 (1976) (quoting *Lefkowitz v. Turley*, 414 U.S. 70, 77 (1973)).

541. Sponsors cite to *Baxter v. Palmigiano* for the proposition that “the Fifth Amendment does not forbid adverse inferences against parties to civil actions when they refuse to testify in response to probative evidence offered against them.”²⁰⁶ The Sponsors argue that, because neither Campbell nor Stocker are *parties* to the case – they were both witnesses – the Court cannot draw an adverse inference from their invocation of the Fifth Amendment.
542. However, this is not how courts interpret *Baxter*. The Seventh Circuit has explained that we “have interpreted *Baxter* to mean that the negative inference against a *witness* who invokes the Fifth Amendment in a civil case is permissive, not required.”²⁰⁷ Other courts have required that some limit be placed, even in the civil context, on when the court may draw an adverse inference, but they still allow adverse inferences against third-party witnesses who invoke the Fifth Amendment.²⁰⁸
543. Although the “declarants are not parties to this case, it is not accurate to view them as neutral, unaffiliated parties.”²⁰⁹ Mr. Stocker and Mr. Campbell both collected signatures in support of 22AKHE. The Court

²⁰⁶ *Id.* at 318.

²⁰⁷ *Evans v. City of Chicago*, 513 F.3d 735, 741 (7th Cir. 2008) (emphasis added).

²⁰⁸ See *Akers v. Prime Succession of Tennessee, Inc.*, 387 S.W.3d 495, 506 (Tenn. 2012) (requiring “independent evidence of the fact to which a party refuses to answer by invoking his or her Fifth Amendment privilege” to corroborate the fact under inquiry); *Nationwide Life Ins. Co. v. Richards*, 541 F.3d 903, 911–12 (9th Cir.2008) (“When a party asserts the privilege against self-incrimination in a civil case, the district court has discretion to draw an adverse inference from such assertion.... Moreover, the inference may be drawn only when there is independent evidence of the fact about which the party refuses to testify.”); *LiButti v. United States*, 107 F.3d 110, 123-24 (2d Cir. 1997) (developing a multi-factor balancing test to determine whether a nonparty witness’ invocation of privilege against self-incrimination in applies in a civil case, including “(1) nature of witness’ relationship with and loyalty to party; (2) degree of control which party has vested in witness in regard to key facts and subject matter of litigation; (3) whether witness is pragmatically noncaptioned party in interest and whether assertion of privilege advances interests of witness and party in outcome of litigation; and (4) whether witness was key figure in litigation and played controlling role in respect to its underlying aspects”); see also *Coquina Invs. v. TD Bank, N.A.*, 760 F.3d 1300, 1311 (11th Cir. 2014) (adopting *LiButti* test).

finds that both Mr. Stocker and Mr. Campbell were loyal to the Sponsors, and thus there are no concerns that the declarants invoked the Fifth Amendment to transfer blame, avoid liability, or for some other untrustworthy purpose.

544. Regardless, the Court finds that Mr. Stocker and Mr. Campbell's invocation of the Fifth Amendment equated to a failure to reaffirm the authenticity of their certification affidavits.
545. As noted above, the Court finds that their failure to reaffirm that 1) all the signatures in their booklets were made in their "actual presence," and 2) that they were the sole circulator of their petition booklets, requires the disqualification of those booklets. Thus, all of Mr. Stocker's booklets (0416, 0417, 0461, 0462, 0463, 0464; exhibits 2265, 2266, 2292, 2293, 2294, 2295) must be disqualified (both Mr. Campbell's certified booklets were already disqualified as unattended booklets at Duane's).
546. Plaintiffs ask the Court to throw out all petition booklets certified by Ms. Nash based solely on the testimony of Mr. Costa that he saw a deposition transcript where Ms. Nash did not appear for a scheduled deposition. Absent more (the Court was not provided the transcript, or any other evidence whatsoever establishing that Ms. Nash was properly served with a subpoena to appear), the Plaintiffs have not met their burden to establish that Ms. Nash failed to "reaffirm" her certifications.

6. Self-Certification

547. As noted above, the Court finds that self-certification in lieu of notarization is always available to circulators.

²⁰⁹ *Cf. F.T.C. v. Am. Tax Relief LLC*, No. CV 11-6397 DSF PJWX, 2012 WL 8281722, at *2 (C.D. Cal. Aug. 8, 2012).

548. No signatures or booklets are disqualified on the basis that any circulator self-certified without actually trying to locate a notary.

7. “*Falsus in uno, falsus in omnibus*”²¹⁰

549. Again, the Court finds that if the circulator knowingly signed a certification which was not true, or disavowed the prior certification,²¹¹ all signatures within the impacted petition booklets are to be disqualified by the Division. However, because each petition booklet is individually certified, the Court finds that it would be inappropriate to disqualify all booklets from those circulators *in toto*. Moreover, none of the alleged misconduct rises to the level that other courts have found warrants disqualification of all booklets from single circulators.²¹² The Court finds this approach balances the State’s “compelling interest in ‘ensuring the integrity of the election process and preventing fraud,’”²¹³ while not disenfranchising an excessive number of innocent Alaskan voters.

550. No signatures or booklets must be disqualified on the basis that other booklets from that circulator must be disqualified.

8. “Faulty” Notarization/Oversight by Mr. Ransum

551. Plaintiffs ask the Court to disqualify all booklets notarized by Mr. Ransum because his “notes” indicated a different number of booklets notarized than were actually submitted to the Division.

552. The Court finds that the Plaintiffs have not met their burden of proving it is more likely than not that Mr. Ransum did not actually notarize all fifteen of

²¹⁰ Latin for “false in one thing, false in everything.”

²¹¹ See *Zaiser v. Jaeger*, 822 N.W.2d 472, 475 (N.D. 2012) (considering if circulators were willing to “re-affirm” the authenticity of the signatures they gathered).

²¹² See *Williams v. D.C. Board of Elections & Ethics*, 804 A.2d 316, 321 (D.C. 2002), as corrected (August 14, 2002).

the petition booklets that bear his notarization. While he testified that his notes indicated that he only notarized eight petition booklets, no party showed Mr. Ransum the fifteen (15) petition booklets which included his notarization (to confirm whether they included his actual signature), or to refresh his recollection as to whether he in fact notarized additional petition booklets.

553. No signatures or booklets must be disqualified on the basis that Mr. Ransum was the notary.
554. Plaintiffs also ask the Court to disqualify all booklets from circulators that received their booklets, or were “overseen” by Mr. Ransum, because his failure to properly certify other booklets is indicative that they did not receive proper training and, thus, must also have mishandled their booklets.
555. The Court finds this request to be overreaching (especially when none of these circulators were given an opportunity to defend themselves). The petition booklets include instructions on circulator requirements, and to find that circulators are more likely than not to have ignored those instructions based simply on who provided them with booklets would go against the directive of interpreting technical requirements in favor of initiatives going to the ballot.
556. No signatures or booklets must be disqualified on the basis that Mr. Ransum provided the booklet or oversaw the circulator.

9. “Donna”

557. Plaintiffs ask the Court to disqualify all booklets certified by any circulator named “Donna” (they identified two circulators named “Donna”) because

²¹³ *Res. Dev. Council for Alaska, Inc. v. Vote Yes for Alaska’s Fair Share*, 494 P.3d 541, 553 (Alaska 2021).

Ms. Berg Smith identified a woman seen in a video with her (exhibit 1020E) as “Donna.”

558. The Court finds this request to be exceedingly overreaching. There is not any evidence whatsoever that the “Donna” in the video ever even certified any petitions booklets, and no “Donna” was given an opportunity to defend themselves. To disqualify petition booklets from at least one circulator who has not even been remotely identified as engaging in unlawful conduct based purely of her name is unsupported by any case nationwide, and it is a gross deviation from binding Alaska law.
559. No signatures or booklets must be disqualified on the basis that they were certified by someone named Donna.

10. Certified Before Finished Circulation

560. The Court does not find that Mr. Costa’s underlying assumptions and proposed remedies regarding the circulators who had a large number of post-dated signatures (page 21 of exhibit 1055) to be reasonable. As evinced by the credible testimony of Mr. Quantick, there are potentially innocuous reasons for these errors. Moreover, the Division has already excluded (or agreed to exclude) all “post-dated” signatures in petition booklets. The wholesale disqualification of all petition booklets from each of these circulators, particularly those who did not testify in order to provide an explanation, is contrary to Alaska law.²¹⁴

11. False Certification Regarding Payment

561. The Court finds that it is more likely than not that Ms. Emswiler knew or should have known that she falsely signed her certification for booklet 1333

²¹⁴ See *N.W. Cruiseship Assn. of Alaska, Inc. v. State, Off. of Lieutenant Governor, Div. of Elections*, 145 P.3d 573, 588 (Alaska 2006).

(exhibit 2606) by indicating that she was not paid for gathering signatures. Therefore, the signatures in petition booklet 1333 (exhibit 2606) must be disqualified.

D. The Court concludes that the individual signatures remaining at issue were properly qualified.

562. The Court finds that the Division properly counted the signature located at petition booklet 0470, page 5, line 2, because it is evident that the subscriber used two lines to provide his information and date (month and day), and the Division properly qualified it as one signature.
563. The Court finds that the Division properly counted the signature located at petition booklet 0902, page 4, line 8, because it is sufficiently clear that the voter intended to place ditto marks in the place of a date.
564. The Division agreed that it improperly counted the following 36 signatures: Booklet 6, page 3, lines 9-11; page 4, lines 14 and 15; and page 7, lines 3-5; Booklet 274, page 10, line 7; Booklet 275, page 4, line 7; Booklet 368, page 5, line 1; Booklet 462, page 3, line 11; Booklet 470, page 2, line 10; Booklet 569, page 4, line 5; Booklet 656, page 1, lines 8-12, 14, and 15; page 2, lines 1-3 and 10-13; page 4, line 10; Booklet 704, page 4, line 9; Booklet 926, page 2, line 4; Booklet 1291, page 2, lines 12 and 13; Booklet 1297, page 1, line 10; Booklet 1384, page 8, line 15; Booklet 1385, page 2, line 15.

IV. Orders

565. By July 24, 2024, the Division is directed to remove all individual signatures it concedes were improperly counted and all signatures/booklets noted below, and determine whether 22AKHE still has sufficient signatures overall and from 30 of 40 house districts to be found properly filed.

<u>Person</u>	<u>Booklet</u>	<u>Exhibit(s)</u>	<u>Reason(s)</u>
Colleen Sherman	0378	2243	Left unattended Not sole circulator
Sharon Wessels	0392	2253	Not sole circulator
James Stocker	0416	2265	Failed to reaffirm certification
James Stocker	0417	2266	Failed to reaffirm certification
Sylvia Stewart	0435	2276	Left unattended Failed to reaffirm certification
James Stocker	0461	2292	Failed to reaffirm certification
James Stocker	0462	2293	Failed to reaffirm certification
James Stocker	0463	2294	Failed to reaffirm certification
James Stocker	0464	2295	Failed to reaffirm certification
Robert Coulter "Rogers" only	0472	2301; 3004F	Outside Actual Presence
Robert Coulter	0476	2305; 3004G	Not sole circulator Left unattended
Sylvia Stewart	0502	2323	Left unattended Failed to reaffirm certification
Colleen Sherman	0506	2324	Left unattended Not sole circulator
Colleen Sherman	0605	2361	Left unattended Not sole circulator
Colleen Sherman	0606	2362	Left unattended Not sole circulator
Colleen Sherman	0607	2363	Left unattended Not sole circulator
Colleen Sherman	0608	2364	Left unattended Not sole circulator
Colleen Sherman	0609	2365	Left unattended Not sole circulator
Sharon Wessels	0636	2385	Not sole circulator
Sharon Wessels	0637	2386	Not sole circulator
Brad Campbell	0679	2409	Left unattended Not sole circulator Failed to reaffirm certification
Brad Campbell	0835	2484	Left unattended Not sole circulator Failed to reaffirm certification
Eric Hughes	0950	2549	Not sole circulator Failed to reaffirm certification

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Case No. 3AN-24-05615CI

Medicine Crow, et al. v. Beecher, et al.


Page 94 of 95

Theodorus Ransum	0958	2555	Not sole circulator Failed to reaffirm certification
Theodorus Ransum	0967	2560	Left unattended Not sole circulator Failed to reaffirm certification
Trevor Jepsen	1319	2597A	Not sole circulator Failed to reaffirm certification
Mikaela Emswiler	1333	2606	False certification re payment

566. Based on the finding of the Division, by July 25, 2024, the parties are ordered to work cooperatively to submit a Proposed Final Judgment to the Court consistent with the findings herein.

IT IS SO ORDERED.

DATED this 19 day of July, 2024, at Anchorage, Alaska.



Christina Rankin
Superior Court Judge

I certify that on 7/19/24
a copy of the above was emailed
via Case Parties (unless noted otherwise below)
to each of the following at their address of record:

Cm Kendall, SGottstein,
TLindomuth, SKendall, T Flynn,
C Fernthen, Judicial Assistant — L Harrison, KClarkson